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CITY OF LANGLEY
SHORELINE MASTER PROGRAM

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CHAPTER 1. INTRODUCTION

1.1 Title

This document shall be known and may be cited as the Langley Shoreline Master Program (the "Program", "Master Program" or "SMP").

1.2 Adoption Authority

This Program is adopted under the authority granted by the Shoreline Management Act (SMA, or the Act) of 1971 (Revised Code of Washington (RCW) 90.58) and Chapter 173-26 of the Washington Administrative Code (WAC) as amended.

1.3 Purpose and Intent

Washington's Shoreline Management Act (SMA; RCW 90.58) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The SMA has three broad policies:

1. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...."
2. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
3. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

Consistent with the Shoreline Management Act, this Program is intended to:

4. Guide the future development of shorelines in the City of Langley in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (the "Act") as amended (RCW 90.58).
5. Promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Langley's shorelines;

6. Promote uses and development of the Langley shoreline consistent with the Langley Comprehensive Plan while protecting and restoring environmental resources.
7. Ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative Findings for shorelines of the State:

"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."

1.4 Governing Principles

1. The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in Chapter 173-26 of the Washington Administrative Code (WAC). The goals, policies and regulations are informed by the Governing Principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.
2. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

3. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
4. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.
5. The policies and regulations established by the Program must be integrated and coordinated with those policies and rules of the Langley Comprehensive Plan and development regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328, Significant Legislative Rules.
6. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecology from such impairments in the following ways:
 - a. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.
 - b. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Process to Prepare or Amend Shoreline Master Programs.
 - c. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.
 - d. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.

1.5 Liberal Construction

As provided for in RCW 90.58.900, Liberal Construction, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted.

1.6 Severability

The Act and this Program adopted pursuant thereto comprise the basic state and City law regulating use of shorelines in the City of Langley. In the event provisions of this Program conflict with other applicable City policies or regulations, the more restrictive shall prevail.

1.7 Document Organization

The SMP establishes long-term planning goals and policies, specific development standards and use regulations, and permitting and administrative procedures. As such, the SMP is a stand-alone document that is linked to other City planning documents such as the Langley Comprehensive Plan and to the Langley Municipal Code (LMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides background, purpose and legal authority.
- Chapter 2. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Jurisdiction and Environment Designations: establishes a purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Use Policies and Regulations: provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Modification Policies and Regulations: establishes policies and regulations of shoreline modification activities and structures.
- Chapter 6. Specific Use Policies and Regulations: establishes policies and regulations of specific uses in the City's shorelines.
- Chapter 7. Administrative Provisions: provides procedures and process for permit applications associated with shoreline development.
- Chapter 8. Definitions: provides definitions for terms used throughout the SMP.

CHAPTER 2. SHORELINE VISION AND GOALS

2.1 Shoreline Vision

Langley's scenic location and human scaled pedestrian oriented downtown are two of the strongest character defining features of the city. Langley's location along the shores of the Puget Sound with views of the Cascade Mountains makes Langley a very attractive place to live, work and visit. Despite the combination of small town charm and a waterfront location the physical and visual connections to the waterfront in the downtown are not as strong as they could be. Improving visual and physical public access to the shoreline is a major part of the vision for the future of Langley. An expanded South Whidbey Harbor at Langley (marina), connections between the marina and the downtown and the redevelopment of properties in the central waterfront to support water oriented uses that include public access.

Most of Langley's shoreline is dedicated to residential uses on both sides of the central waterfront. Residential development is mostly along the high coastal bluffs. The vision of Langley's shoreline is therefore divided into two central themes. The first theme involves the central waterfront adjacent to the city's historic downtown and enhancing physical and visual connections between the downtown on the top of a high coastal bluff and the shoreline. Improving connections between the downtown and the shoreline are also important for the future economic health of the community that is heavily reliant on tourism. The second theme involves residential development, also predominantly on high coast bluffs, and minimizing the risk to people and property while allowing reasonable development.

The Intergovernmental Panel on Climate Change (IPCC) 2018 report states warming trends caused by greenhouse gas emissions will result in temperature increases of 1.5°C (2.7°F) between 2030 and 2052. A direct result of increasing and unmitigated greenhouse gas emissions and increasing global temperatures is sea level rise. In 2018 the Washington Coastal Resilience Project completed the "Projected Sea-Level Rise for Washington¹" report. This research is an important contribution to our local understanding about sea-level rise in Washington as it provides projections that are probabilistic, localized to a community scale and incorporates new science. Based on these analyses, Langley could potentially experience rises in sea levels from 0.3 and 5 feet between 2050 and 2100. Therefore, to implement Langley's Comprehensive Plan, specifically Goal S-9 and related policies, the SMP includes policies and regulations that encourage and require property owners, the City and stakeholders to begin undertaking adaptation measures related to sea level rise as they plan for and undertake development in the shoreline plan area.

¹ Miller et al., 2018

2.1.1 Central Waterfront

However, despite Langley's location along the Puget Sound the city's connection with the water has not been fully capitalized on during the city's first 100 years. The "Village by the Sea" is an appropriate name for this charming small town community, but also symbolic of the fact that while Langley is "by the sea" physical and visual connections to the water are more limited than expected. The issue is exacerbated by the location of the downtown on the top of high coastal bluffs with limited uplands along the waterfront that make physical and visual connections to the waterfront more difficult. To realize Langley's vision for the central waterfront many different actions within the central waterfront should be undertaken to improve physical and visual access to the shorelines including:

- Public improvements projects that enhance physical connections to and within the central waterfront area
 - Pedestrian Tramway
 - Stairs
- Commercial development infill with expanded and improved public access that provides physical or visual connections with the water
- Expansion of South Whidbey Harbor at Langley
- A new public pier to replace the original "999' Pier" at the foot of Anthes



2.1.2 Residential Development

Residential development adjacent to high coastal bluffs that naturally erode has the potential to put people and property at risk. Shoreline armoring to protect residential properties is detrimental to the coastal environment by disrupting the natural process of bluff erosion that is an important part of the shoreline ecology. Residential development should be designed in such a manner as to not require shoreline armoring for protection and that will not cause significant risk to people and property. Residential property owners along high bluffs should minimize risk to their property through protecting and restoring shoreline vegetation, managing stormwater and providing an appropriate setback from the bluff.

2.2 Shoreline Goals

2.2.1 Economic Development

A. Purpose

This element addresses the location of industries, marina facilities, commercial uses and other development, including those portions of the commercial core of Langley that are located on shorelines of the state. This element considers the relationships between activities, structures and environmental

modifications that constitute economic development. For the purposes of this Master Program economic development means the use of the shoreline area to produce goods and services.

B. Goals

1. Foster a balanced, diversified and sustainable local economy that contributes to Langley's high quality of life, through the protection and enhancement of the community's natural, historical, and cultural amenities, and the improvement of the financial well being of its residents.
2. Manage economic development of water dependent, water related and commercial development along shorelines to ensure compatibility among uses for the purpose of achieving beneficial effects and enhancing the quality of life for the residents of Langley with minimal disruption or degradation of the environment.
3. Assist the Port of South Whidbey in the development and implementation of master plans for South Whidbey Harbor at Langley properties that are consistent with the Growth Management Act, Langley's Comprehensives Plan, and the Shoreline Master Program.

2.2.2 Shoreline Use

A. Purpose

This element considers the pattern, distribution and location of land uses on shorelines and adjacent areas including housing, commercial, industrial, transportation, public facilities and utilities, recreation, and natural resources. Also to be considered is the pattern and distribution of water oriented uses. It is by its nature, paramount of the City's management responsibilities.

B. Goals

1. Establish and implement policies and regulations for land uses that are consistent with the requirements of the Act, the Shoreline Guidelines, and the GMA, and which promote a mixture of reasonable and appropriate shoreline uses that enhance the City's character, emphasize its connection with marine trades, foster its historic and cultural identity, protect environmental resources and achieve a net ecosystem improvement over time.
2. Assure that the conservation and development of Langley's shorelines is balanced, orderly, in suitable locations, done with minimum disruption to the natural environment and consistent with the comprehensive plan and the goals and policies of the master program.
3. Give priority to the expansion of the marina, new shoreline commercial and industrial development that is water-oriented or which provides a significant public benefit in the form of restoration of ecological functions/enhancement of public access and/or revitalization of historic resources.

4. In recognition of the fact that the economic foundation of the City's waterfront businesses is tourism based and not water dependent, development within the local shoreline areas that is consistent with historical development patterns is a priority of this master program.

2.2.3 Public Access

A. Purpose

This section makes provisions for public access to the shoreline as required by 90.58.100(2)(b) RCW. This element addresses the physical and visual access to shorelines and tidelands and access to public waters. Langley has approximately 1.7 miles of marine shorelines, both publicly and privately owned. While much of the publicly owned tidelands affording the public the best access are located in the marina and on the shore side of the commercial district, there are still opportunities to develop additional public access.

B. Goals

1. Expand and enhance the development of safe, convenient and diversified public access to the shorelines and public tidelands in the City of Langley. Public access may take the form of actual physical access to the shoreline; scenic overlooks and visual access from Public ways between structures.
2. Plan, provide and maintain a comprehensive system of public access. Such a system should be designed to provide safe and abundant access to water and shoreline recreational areas while discouraging trespass onto private properties. Water-oriented uses and activities are encouraged that provide an opportunity for substantial numbers of the public to enjoy the local shoreline.
3. Provide, maintain and enhance a safe, convenient, and balanced system of public access, both physical and visual.
4. Emphasize the right of the general public to enjoy the physical and aesthetic qualities of the shoreline and water areas, while allowing for controlled development consistent with the public interest.
5. Actively pursue public access to publicly owned tidelands and develop a coordinated system of linked public access wherever possible.
6. Incorporate public access into projects that involve the redevelopment of residential properties for commercial use in the urban environment
7. Create a public access link between Seawall Park and the South Whidbey Harbor at Langley/Phil Simon Park through dedication and/or acquisition.

2.2.4 Recreation

A. Purpose

This element addresses the preservation, as well as the enhancement, of recreation opportunities including but not limited to parks, beaches, tidelands and recreation areas.

B. Goals

1. Develop and maintain appropriate public and private recreational opportunities that are compatible with adjacent uses and that minimize disruption and degradation of the shoreline environment, recognizing the importance of existing park, trail and recreation areas.
2. Encourage the use of shorelines for a variety of recreation activities and achieve maximum compatibility with natural shoreline systems.
3. Encourage private investment in recreation facilities.
4. Consider the construction of a recreational pier extending from the terminus of Anthes Avenue to recreate the historic overwater pier.
5. Make improvements to Seawall Park and Hladky Park that enhance the recreational opportunities available and promote adjacent economic development.

2.2.5 Circulation

A. Purpose

This element addresses the general location of existing and proposed transportation routes, terminals, and other public utilities and facilities. It is intended to address those structures and activities connected with the movement of people, vehicles, and goods and services and with their relationship to the shoreline. The goals and policies will serve as guide for the design and construction of circulation systems within the shoreline jurisdiction in the City of Langley.

B. Goals

1. Achieve safe, convenient, non-motorized-friendly, and diversified circulation systems that provide public access to the shoreline, efficient movement of people and goods, with minimum disruption to the shoreline environment and minimum conflict among shoreline uses and between shoreline users and abutting upland areas. Such systems should accommodate people with disabilities to the greatest extent feasible.
2. Ensure that transportation and circulation facilities located within the shoreline jurisdiction are designed with the minimum disruption to the environment and

minimum conflict with shoreline uses. Facilities should be designed to be the minimum size necessary to achieve the intended purpose.

3. Support the development of passenger-only ferry services from Puget Sound urban areas and cooperate with state and federal service from Langley to these locations.
4. Encourage the use of bicycles, shuttles (electric vehicle), pedestrian trams, and other alternative modes of transportation for general access to and from the waterfront.
5. Locate and design circulation systems to provide linkages with other economic and social activities both present and future.

2.2.6 Conservation

A. Purpose

The purpose of this element are to foster the protection of shoreline resources and characteristics such as beaches, fish and wildlife habitat, native and appropriate non-native vegetation, scenic vistas and other natural and aesthetic features while recognizing that much of the shorelines of Langley are contiguous with areas of intense development.

B. Goals

1. Preserve shoreline natural resources including scenic vistas, aesthetics, estuaries, beaches, shorelines, fragile ecological areas, fish and wildlife habitats, native and appropriate non-native vegetation and landforms, water and air.
2. Assure the preservation and continued utilization of Langley's fragile and scenic resources.

2.2.7 Restoration

A. Purpose

Consistent with the Shoreline Management Act's policy on protection and restoration of environmental resources of the shoreline, this section addresses the requirement to achieve "no net loss of ecological functions necessary to sustain shoreline natural resources" and to provide for the restoration of impaired ecological functions.

B. Goals

1. To achieve No Net Loss and strive to improve impaired shoreline ecological functions with the goal of achieving improvement over time, when compared to the status at the time of adoption of the Master Program.

2. Prioritize protection and/or conservation of shoreline areas that are ecologically intact and minimally developed or degraded.
3. Acquire or otherwise protect a maximum amount of prime habitat for conservation purposes.
4. Conserve urban open space to provide habitat for wildlife and native plants.

2.2.8 Archeological, Historical and Cultural Resources

A. Purpose

The purpose of this element is the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values. This element applies in those instances where historical or archeological sites may be found in the shoreline area and is intended to establish policies for the protection of areas and sites having historic, cultural, educational, or scientific value.

B. Goals

1. Ensure the recognition, protection, and restoration of shoreline areas that have historical, cultural, educational, or scientific value to the community, and create a unique “sense of place” in the shoreline jurisdiction.
2. Protect, preserve and restore historical, cultural, educational, and scientific sites with the shorelines of the city of Langley.
3. Foster greater appreciation for the importance of shoreline management, environmental conservation, and maritime history and activities by encouraging educational projects and programs.

2.2.9 Flood Hazard Management

A. Purpose

The purpose of this element is to protect shoreline resources and shoreline development and ensure public safety through land use controls and implementation of federal, state and local flood hazard management programs.

B. Goals

1. Manage flood protection in accordance with the City’s current flood hazard regulations set forth in LMC 15.24.
2. Participate in regional efforts on flood protection issues, coordinating with the Federal Emergency Management Agency (FEMA), the State of Washington and Island County.

3. Discourage development in coastal high hazard areas associated with the City's shorelines that would individually or cumulatively result in an increased risk of flood damage.
4. Give preference to flood hazard avoidance and non-structural flood hazard reduction measures over structural measures.

CHAPTER 3. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

SMA jurisdiction includes all “shorelines of the state” as defined in RCW 90.58.030. In Langley, the shoreline area to be regulated by the City’s SMP includes:

- The Puget Sound shore within the City’s municipal boundary.
- The open water and tidelands extending to the middle of Possession Sound;
- The upland area landward 200 feet of the OHWM (roughly equivalent to the Mean Higher High Water or MHHW); and
- All associated wetlands.

Associated wetlands, deltas and floodways that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters of Puget Sound. In general, a wetland is “associated” if all or a portion of the wetland falls within that area that is 200 feet from the ordinary high water mark. A wetland outside of this area may also be associated if it is in proximity to the shoreline and there is a demonstrated influence between the wetland and the shoreline. Such influence can include hydraulic continuity, such as a surface or groundwater connection.

In administering this Program, the Ordinary High Water Mark (OHWM) shall be determined through a site-specific investigation using field indicators consistent with the definition in Chapter 8 and RCW 90.58.030(2)(c).

3.2 Shorelines of Statewide Significance

The SMA designates some shorelines as “shorelines of statewide significance”. These “shorelines of statewide significance” include portions of Puget Sound and other marine water bodies, rivers with mean annual flow of 1,000 cfs or greater, and freshwater lakes 1,000 acres or larger. Consistent with RCW 90.58.020 and .090, the SMA raises the status of “shoreline of statewide significance” by establishing specific preferences for uses and calling for a higher level of effort in implementing the objectives of the SMA.

In the City of Langley, shorelines of statewide significance include the open water areas of Puget Sound lying seaward from the line of extreme low tide. Shorelands landward of extreme low tide do not meet criteria of RCW 90.58.030(2)(f) for designation as a shoreline of statewide significance, and are considered shorelines of the state. Figure 1 demonstrates this division:

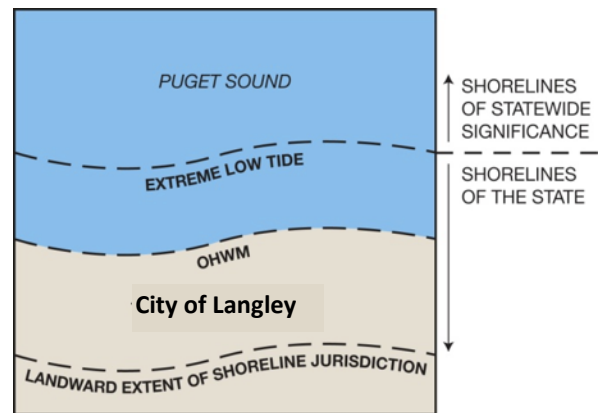


Figure 1. Shoreline of Statewide Significance

The following policies are hereby adopted for shorelines of statewide significance in Langley, consistent with RCW 90.58.020. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines, including uses that:

1. Recognize and protect the statewide interest over local interest.
2. Preserve the natural character of the shoreline.
3. Result in long term over short term benefit.
4. Protect the resources and ecology of the shoreline.
5. Increase public access to publicly owned areas of the shoreline.
6. Increase recreational opportunities for the public in the shoreline.
7. Provide for any other element as defined in RCW 90.58.100, Programs as Constituting Use Regulations, deemed appropriate or necessary.
8. Uses that are not consistent with these policies should not be permitted on shorelines of statewide significance.

3.3 Shoreline Environment Designations

The Langley classification system consists of five shoreline environments that are consistent with and implement the Washington State Shoreline Management Act (Chapter 90.58 RCW), the Shoreline Master Program Guidelines (Chapter 173-26 WAC), and the City of Langley Comprehensive Plan. These environment designations have been assigned consistent with the corresponding designation criteria provided for each environment. In delineating environment designations, the City aims to assure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should also be consistent with policies for restoration of degraded shorelines. The three shoreline environments and three aquatic subareas are listed below and shown in Appendix A.

1. Shoreline Residential
2. Urban
3. Aquatic Subareas:
 - a. Aquatic – Conservancy; and
 - b. Aquatic – Urban; and
 - c. Aquatic – Boat Harbor

3.3.2 Shoreline Residential

A. Purpose

The purpose of the Shoreline Residential Designation is to accommodate residential development and associated structures that are consistent with the Shoreline Management Act (SMA) and the protection

and restoration of ecological functions. An additional purpose is to provide appropriate public access and recreational uses.

B. Designation Criteria

Areas designated Shoreline Residential shall meet one or more of the following criteria:

1. Areas where the predominant development is residential
2. Those areas designated as Residential-Low, Residential-Medium, and Open Space in the Langley Comprehensive Plan
3. Areas designated RS 5000, RS 7200 and RS 15,000 on the Official Zoning Map
4. Areas of low and moderate intensity residential land that maintain significant natural features
5. The Shoreline Residential Designation is appropriate for shoreline areas that are planned and platted for residential development. Where appropriate infrastructure either exists or is planned to be extended for the purpose of serving residential development

C. Management Policies

Development within Shoreline Residential shoreline areas shall be consistent with the following policies:

1. Allow residential uses and appurtenant uses as the primary allowed uses in the Shoreline Residential Designation.
2. Allow limited non-residential uses permitted in the underlying zone, such as community clubhouses, child care, home occupation businesses, and short-term rentals, provided they are consistent with the residential character.
3. Encourage protection/restoration of ecological functions through proactive public education and stewardship programs.
4. Multi-family residential, multi-lot (5 or more) or related subdivision and recreational development should provide shoreline areas for joint use, and public access to the shoreline.
5. Restrict new residential development to those which are compatible with the natural and biological limitations of the land and water and will not require extensive alteration of the land-water interface.
6. Prohibit development which would be hazardous to public health and safety, or which significantly interferes with natural processes.
7. Encourage all use and development of shoreline properties to adapt to the potential adverse effects of sea level rise.

3.3.3 Urban

A. Purpose

The purpose of the Urban Designation is to provide for commercial and recreational uses, limited residential, mixed use, transient uses and public land uses, while seeking opportunities for protection and restoration of ecological functions. Because few water-dependent or water-related uses are appropriate in this location, to be consistent with the policy of the Act, shorelines within the Urban designation should be used in ways that enhance ecological functions and/or provide opportunities for the public use and enjoyment of this shoreline.

B. Designation Criteria

The Urban designation is appropriate for areas that currently support or are planned for general higher density residential, commercial and mixed-use development. The Urban Designation is located landward of the OHWM and is bounded on the west by the western boundary of the Central Business zone and on the east by the eastern boundary of the Neighborhood Business zone.

The Urban designation includes areas of existing intense development; including commercial, high-density residential, marina, and industrial uses; areas of water dependent, water related or water enjoyment uses; and areas planned for and designated as Commercial, Residential-High, and Open Space Public Use in the Langley Comprehensive Plan; and areas on the Official Zoning Map designated Central Business, Public Use, and RM-Mixed Residential.

C. Management Policies

1. Give priority to water-oriented uses over non-water-oriented uses. Except for businesses within the central business district along 1st Street, non-water oriented uses should only be allowed as part of a mixed use project that includes a water-oriented or water-enjoyment component.
2. Water-dependent uses are a priority adjacent to the Aquatic – Boat Harbor designation.
3. Encourage uses that enhance the economic viability of the First Street and Sunrise lane waterfront and the commercial/mixed use buildings along the shoreline between First Street and Seawall Park.
4. Encourage uses that do not cause a net loss in or enhance ecological functions and/or enhance opportunities for the public use and enjoyment of this shoreline.
5. Ensure that, where applicable, improvements within this district are reviewed for compatibility and consistency with the Design Standards codified in the LMC zoning code.

6. Encourage designs that incorporate conservation and restoration elements, such as restoration of intertidal habitat, shoreline vegetation, and enhancement of public access.
7. Require, where applicable, new development and/or redevelopment to include environmental cleanup (e.g., removal of contaminated soils) and restoration of the shoreline in accordance with state and federal requirements.
8. Ensure that new development acknowledges and continues the continuity of the street façade and the predominance of ground-level street-front retail bays along First Street.
9. Encourage all use and development of shoreline properties to adapt to the potential adverse effects of sea level rise.

3.3.4 Aquatic

A. Purpose

The purpose of the Aquatic designation is to protect, restore and enhance the unique characteristics and resources of marine waters, including habitat, ecology, navigation and public enjoyment. Recognizing the unique and fragile nature of the aquatic environment, those limited uses that are allowed will typically require a conditional use permit.

B. Designation Criteria

The Aquatic environment designation is the area located waterward of the ordinary high water mark. The Aquatic environment has three sub-districts, i.e. Aquatic – Conservancy, Aquatic – Urban, and Aquatic – Boat Harbor. The Aquatic environment includes the water surface together with the underlying lands and the water column of such areas. The Aquatic designation has been subdivided into the following three sub-districts:

1. **Aquatic – Conservancy.** Includes areas waterward of the ordinary high water mark, except for areas designated Aquatic – Urban and Aquatic – Boat Harbor.
2. **Aquatic – Urban.** Includes areas waterward of the ordinary high water mark bounded on the west by the waterward extension of the parcel line at the western boundary of the Central Business zone and on the east by the waterward extension of the parcel line at the western boundary of Lot 8 of the Plat of Sunrise Lane. (i.e. Nichols Pier)
3. **Aquatic – Boat Harbor.** Includes areas waterward of the ordinary high water mark bounded on the west by the Aquatic – Urban environment and on the east by the waterward extension of the parcel line at the eastern boundary of the Central Business zone.

C. Management Policies

1. Limit uses and activities within the Aquatic Conservancy environment, with few exceptions, to public access/recreational improvements designed to provide access to the shoreline for a substantial number of people.
2. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to be compatible with adjacent aquatic and upland uses, and to consider impacts to public view.
3. Shoreline uses and modifications within the Aquatic environment should be designed and managed consistent with the environmental protection policies and regulations of this Master Program including but not limited to preservation of water quality, habitat (such as eelgrass, kelp, forage fish spawning beaches, etc.), natural hydrographic conditions, and safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
4. Uses that adversely impact the ecological functions of critical saltwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
5. Remove abandoned over-water structures when they no longer serve their permitted use unless:
 - a. Retaining such structures provides a net environmental benefit, for example, artificial reef effect of concrete anchors; or
 - b. Such structures can be reused in a manner that helps maintain the character of the City's historic waterfront and/or expand public access; or
 - c. Removing such structures would have substantial potential to release harmful substances into the waterways despite use of reasonable precautions.
6. All structures that could interfere with navigation shall be marked in accordance with the Coast Guard Private Aids to Navigation.
7. Developments in the aquatic designations should not be approved where they would present a significant hazard to navigation.
8. Structures placed in the Aquatic designation shall blend into the surroundings to the greatest extent feasible utilizing appropriate color(s), texture, non-reflective materials, and other design characteristics.
9. New over-water structures are subject to Design Review pursuant to Title 18 of the LMC.

10. Encourage all use and development of shoreline properties to adapt to the potential adverse effects of sea level rise.
11. Collaborate with other entities that have management responsibilities in the Aquatic environment. For example, the Port of South Whidbey operates the South Whidbey Harbor at Langley. Additionally, the Washington Department of Natural Resources operates a program to address derelict or abandoned vessels.

3.3.5 Undesignated Shorelines

In the event that new shoreline areas are discovered that are not mapped and/or designated on the official shoreline map, these areas are automatically assigned the Conservancy designation until the shoreline can be re-designated through an SMP amendment (WAC 173-26-211(2)(e)).

CHAPTER 4. GENERAL USE POLICIES AND REGULATIONS

4.1 General

General policies and regulations are applicable to all uses and activities that occur within all Shoreline Environmental Designations (SEDs). The policies and regulations found in this chapter are intended to be used in conjunction with the more specific use and activity regulations found in the following chapters. These policies apply to all uses within the jurisdiction, whether or not a separate shoreline permit is required. These policies may be used to condition any required permit or required letter of exemption.

4.2 Shoreline Use

4.2.1 Policies

1. Preference should be given to water dependent, water related and water oriented uses and uses which enhance public access to the shoreline. In addition, it is important to recognize that certain areas in the Urban/High Intensity Environment have historically been developed or designated for general commercial use and while not located on the shoreline, are located within the jurisdictional boundaries of the Shoreline Management Act and this Master Program.
2. Permitted shoreline uses should be consistent with the Langley Comprehensive Plan and development regulations.
3. Over-water development should not be allowed except in limited instances for water dependent uses and public access or as otherwise provided in Chapter 6 of this Program.
4. Ensure public safety, enhance public access, and achieve no net loss of shoreline ecological functions by appropriately locating, designing, and operating shoreline uses.
5. Land uses adjacent to the shoreline jurisdiction should be planned to be compatible with adjacent shoreline uses and avoid impacting shoreline resources.
6. Shoreline areas outside of the Urban environment should be reserved for low density residential uses, public infrastructure, or recreational uses.
7. All known, available and reasonable methods of prevention, control and treatment (AKART) are required for all developments and redevelopments to prevent, control, or abate the pollutants associated with any discharge. This requirement applies to both point and nonpoint sources of pollution.
8. Increased shoreline bluff instability and water quality degradation resulting from development should be avoided through sensitive site planning, appropriate setbacks, and use of best management practices in erosion and runoff control and timing of construction activities.

9. Maximize water-dependent and water-related industrial and commercial uses in the Aquatic harbor environment and associated uplands.
10. Encourage marine activities and water-oriented uses within the South Whidbey Harbor at Langley that are in keeping with the small-scale and historic character of the area and are compatible with surrounding areas.
11. Allow a range of non-water oriented uses within the Commercial District (Urban designation) as a means of promoting revitalization of the district as a whole.
12. Protect existing shoreline and water views, promote public safety, and avoid adverse impacts to marine bluffs and nearshore habitat in designing new residential development.
13. Non-water-oriented use should be allowed in the shoreline areas adjacent to the Aquatic harbor area when they are part of a mixed use development including water-dependent and/or water-oriented uses, which allow substantial numbers of people to enjoy the shoreline.
14. Minimize the use of the shoreline for vehicular parking and pursue upland joint use parking facilities connected by pedestrian ways, pedestrian trams, or alternative small vehicle connections, e.g. electric vehicles.
15. Joint uses and activities are encouraged in proposed shoreline development.
16. The City should continue to develop information about the impacts of sea level rise on the shoreline and other affected properties; the City should develop adaptation plans to address the impacts of sea level rise in collaboration with impacted property owners, the community and the Department of Ecology. These plans should include at minimum flood prevention approaches, shoreline environment impact considerations and financing approaches. The City should amend the Shoreline Master Program and other policy and regulatory tools in the future as necessary to implement these adaptation plans.
17. During scheduled SMP updates, the City shall assess whether the anticipated sea level rise projections used in the SMP remain relevant or revisions are necessary to adjust for more up to date research.

4.2.2 Regulations

1. Permitted shoreline uses and developments shall be consistent with the City of Langley Comprehensive Plan and development regulations (Title 18 LMC).
2. All shoreline development shall be located, constructed and operated so as to protect public health, safety and welfare.
3. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, rectify,

reduce, or compensate for the environmental impact) shall follow that listed in WAC 173-26-201(2)(e), see also definition of “Mitigation,” listed in this Master Program).

4. In approving shoreline developments, the City of Langley shall ensure that shoreline development, use, and/or activities will result in no net loss of ecological functions necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time to the extent consistent with constitutional and statutory limitations on the regulation of private property. To this end, the City may require modifications to the site plan and/or adjust or prescribe project dimensions, intensity of use, and screening as deemed appropriate. If impacts cannot be avoided through design modifications, the City shall require mitigation commensurate with the project’s adverse impacts.
5. Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial consistent with constitutional and statutory limitations on such denials.
6. Passage for low profile, non-motorized boats (e.g., rowing skiffs, kayaks) shall be provided beneath the structure where feasible, given safety and security issues.
7. The maximum level for noise generated in the Aquatic designation shall be 50 dba at a distance of 100 feet. This standard shall not apply to vessels that are under way to include float planes. All feasible methods shall be employed to minimize over-water noise generation.
8. Whenever redevelopment is proposed, the redeveloped structure shall reduce associated environmental impacts. The historic footprint may be altered provided that the revised footprint reduces associated environmental impacts (e.g., a reduced footprint, a design incorporating grates to allow light to penetrate, or even extension of the dock where the extended footprint actually reduced impacts to critical saltwater habitat when compared with the historic footprint).
9. Minor expansion of existing over-water structures may be permitted when necessary to provide public access where it is currently lacking, for environmental restoration, to preserve historic elements of the structure, or to meet building safety codes.
10. Redeveloped structure shall provide physical public access to and over the water consistent with the provisions of this Master Program (See also, SMP Section 7.9, Non-Conforming Uses, Structures, and Lots).
11. Approval of new over-water structures shall include a condition that structures, equipment, and materials shall be removed as soon as practicable upon the cessation of a project's operation or a structure's useful life. Any structure that is damaged or breaks away in the water shall be repaired or removed by the Permittee as soon as practicable. Permittees who anticipate a temporary interruption of the use of a facility or structure may be allowed to keep it in its permitted location provided they notify and receive written concurrence from the

City of Langley Planning Department. Any structure not utilized for over one (1) year shall be removed by the owner regardless of future anticipated use unless prior permission has been granted by the City's Shoreline Administrator upon showing of good cause (e.g., environmental benefit, potential for reuse consistent with historic character, removal may result in environmental degradation).

12. The City may require a security bond for developments in the Aquatic designation suitable to guarantee the removal of all structures, equipment, and materials, for developments and activities that are anticipated to cease operation in less than five years from date of approval. The City may require security beyond that required by the state if it is determined that state requirements are not adequate to secure removal of structures.
13. Permittees shall be liable for all damages to public and private property resulting from their activities and development within the Aquatic designation. The City may require liability insurance beyond that required by the State if it is determined that state requirements are not adequate to cover damages.
14.
 - a. Applicants for development in the shoreline plan area shall be provided with information on sea level rise.
 - b. Applicants for development in Langley's West and Center reaches shall be encouraged to voluntarily consider increasing setbacks to allow for future sea level rise.
 - c. A condition of approval for any application, including an exemption letter, shall be required to record a notice on title to identify the potential threat associated with sea level rise and shall hold the City harmless.
 - d. Geotechnical reports in support of variances proposing development or redevelopment within 65 feet of a bluff must contain erosion projections for 75 years based in part on sea level rise.

4.3 Environmental Protection and Critical Areas

4.3.1 Policies

1. Protect critical areas and shoreline ecological processes and functions through regulatory and non-regulatory means that may include acquisition of key properties, regulation of development and uses, and incentives to encourage ecologically sound design
2. Protect unique, rare, and fragile environments, including wetlands and fish, critical saltwater habitat and wildlife habitat conservation areas from impacts associated with development and uses.

3. Locate and design development to minimize risks to people, property and other critical areas associated with geologic and flood hazard areas.
4. All developments and uses in the marine waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe unobstructed passage of fish and wildlife, particularly those species dependent on migration.
5. All proposed development and uses in the shoreline should comply with the City's Critical Areas Ordinance (LMC 16.20), which shall be incorporated into the SMP by reference.
6. Application of the critical area regulations in shoreline jurisdiction should provide a level of protection to critical areas assuring no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.
7. In the event provisions of this SMP conflict with provisions of federal, state, county or city regulations, the provision that is most protective of shoreline resources shall prevail.
8. Protect critical salt-water habitats in recognition of their importance to the marine ecosystem of the City of Langley and the State of Washington. These habitats provide critical reproduction, rearing and migratory nursery areas for valuable recreational and commercial species. They provide habitat for many marine plants, fish and animals.
9. Prohibit, with limited exceptions, development, uses, activities and structures in critical saltwater habitats. Exceptions may be allowed for public or semipublic facilities (e.g. water-dependent recreational or transportation facilities or utilities), where no alternative location is available. Shellfish aquaculture is allowed in existing subsistence, commercial and recreational shellfish beds when consistent with the policies and regulations of this program.
10. Protect the composition of the beach and bottom substrate. Developments within or adjacent to the shoreline jurisdiction where critical salt water habitats exist, should not directly or indirectly change the composition of the beach and bottom substrate. Habitat enhancement and restoration projects should change beach or bottom substrata only when appropriate to restore or enhance these habitats.
11. Promote the use of permanent open spaces, buffers, retention of native and appropriate non-native vegetation and best management practices for erosion control to protect vegetation and shorelines and waters from impacts caused by runoff
12. Avoid indirect impacts on critical saltwater habitats by appropriately locating and designing developments.
13. All shoreline use and development should be carried out in a manner that achieves no net loss of ecological functions; in assessing the potential for net loss of

ecological functions or processes, project specific and cumulative impacts should be considered.

14. Impacts to critical areas and critical saltwater habitats should first be avoided, and where unavoidable, minimized and mitigated to result in no net loss of ecological functions.
15. Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries and other endangered or threatened species and habitats.
16. The City should participate with state and federal resource agencies as well as Tribes to minimize potential adverse affects of Ghost shrimp (or sand shrimp) harvesting on local marine mammal food supply.
17. Employ Adaptive Management: Monitor and analyze the cumulative impacts of development permitted in shoreline areas, including development exempt from a shoreline Substantial Development Permit. Where impacts are occurring beyond that anticipated, the City should revise the Master Program to address the cumulative impacts, and/or revise the conditions of approval of developments to address the new information.

4.3.2 Regulations

A. Environmentally Critical Areas

1. The following provisions of Chapter 16.02 LMC, Resource Lands and Environmentally Sensitive (Critical) Areas Management (Ordinance 619, 1992, last amended November 18, 2005 per Ordinance 861, 2005), are incorporated into this Shoreline Master Program by reference:
 - a. 16.20.010 Purpose.
 - b. 16.20.020 (B-D) Critical Areas Report.
 - c. 16.20.030 Designation and regulation of aquifer recharge areas.
 - d. 16.20.035 Designation and regulation of regulation of wildlife habitat areas.
 - e. 16.20.040 Designation and regulation of flood hazard areas.
 - f. 16.20.045 Geologically hazardous areas.
 - g. 16.20.050 Wetlands and streams.
 - h. 16.20.055 Wetland and streams – Purpose, goal and designation criteria.
 - i. 16.20.060 Wetlands – measures to minimize impacts to wetlands.

- j. 16.20.065 Wetlands – Wetlands and streams – buffers.
 - k. 16.20.070 – Wetlands and streams buffer width increases, averaging and reductions.
 - l. 16.20.080(A) – Permitted Uses.
 - m. 16.20.085 Wetlands and streams - Land use standards.
 - n. 16.20.095 Identification of resource lands and environmentally sensitive (critical) areas
 - o. 16.20.100 Bonds for restoration and mitigation activities.
 - p. 16.20.105 Provisions of this chapter – Apply to identified and unidentified sensitive lands.
2. Exceptions to the applicability of the City of Langley Environmentally Critical Areas Regulations within shoreline jurisdiction are as follows:
- a. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements consistent with WAC 173-22-035.
 - b. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology).
 - c. Wetland buffer requirements are as follows:
 - i. Category I Wetlands. 300 feet from the delineated wetland boundary.
 - ii. Category II Wetlands. 300 feet from the delineated wetland boundary.
 - iii. Category III Wetlands. 150 feet from the delineated wetland boundary.
 - iv. Category IV Wetlands. 50 feet from the delineated wetland boundary.
 - d. Buffer reductions, including but not limited to those described under LMC 16.20.045.C.1.a.s, can only be authorized through a Shoreline Variance pursuant to Section 7.6.4 of this Program and WAC 173-27-170. Within the shoreline jurisdiction, buffer reductions are not eligible for a zoning variance through LMC 18.30.020.
 - e. Reasonable Use provisions, including, but not necessarily limited to LMC 16.20.070.C.2 and LMC 16.20.080.B.1.d, shall not apply within shoreline jurisdiction. The SMP

Shoreline Variance according to Section 7.6.4 of this Program and WAC 173-27 is intended to address these situations.

3. In the event development or performance standards in LMC Chapter 16.20 are inconsistent with standards and requirements in this Shoreline Master Program, the standard that is more protective of natural resources in the shoreline shall govern.

B. Mitigation

1. Mitigation for impacts to critical areas and shoreline functions within shoreline jurisdiction shall occur in the following prioritized order:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

C. Marine Shoreline Buffers

1. Because development in the Shoreline Residential environment occurs predominantly on the top of steep coastal bluffs, conformance with the City's geologically hazardous areas buffers and setbacks as defined in LMC 16.20.045(C)(a) and adopted into this Program per SMP 4.3.2(B) shall provide adequate protection to the Marine shoreline to achieve no net loss of ecological functions.
2. Because shoreline functions within the Urban environment have been substantially altered by the seawall and removal of native vegetation, a standard buffer of 25 feet from the OHWM shall be established.
3. The buffer shall be measured landward in a horizontal direction perpendicular to the ordinary high water mark (OHWM) of the shoreline water body, and shall be a three dimensional space that includes the airspace above.

4. To the extent possible, vegetation within shoreline buffers shall be maintained in a predominately natural, undisturbed, undeveloped, and well-vegetated condition. Shoreline buffer vegetation may be modified only as specified in this program.
5. Shoreline buffer areas that contain non-native trees, shrubs, and herbaceous vegetation may be maintained in their existing condition until such time as the site is developed or redeveloped under these regulations.
6. When development is proposed on a site where the shoreline buffer area does not have native vegetation throughout, the buffer shall be required to be enhanced with native woody trees and shrubs that contribute to habitat quality and ecological functions, proportionate to the impacts of the proposed development as determined by the Shoreline Administrator. As a general guideline, for development outside of any required setback or buffer, the percentage of the buffer to be enhanced should equal the percentage increase in impervious lot coverage on the site. Any enhancement required pursuant to setback or buffer modification provisions of this Program would be in addition to this general guideline.
7. If buffers for any shoreline or critical areas are contiguous or overlapping, the buffers and setbacks that are most protective of shoreline resources shall apply.

D. Shoreline Buffer Modifications within the Urban Environment

1. The following new uses and activities may be allowed in the shoreline buffer provided they comply with all provisions of this Program:
 - a. An approved water-dependent or public access use, including trails, walkways and/or pedestrian/bicycle paths; provided, that such development is operated, located, designed and constructed to minimize and, where possible, avoid disturbance to shoreline functions and native vegetation to the maximum extent feasible;
 - b. Water-related or water-enjoyment uses or mixed-use developments that include a water-oriented component provided that the proposed development is operated, located, designed and constructed to minimize and, where possible, avoid disturbance to shoreline functions to the maximum extent feasible;
 - c. Mitigation, restoration, or enhancement actions that have been approved by the City and which comply with all of the provisions of this Program.
2. Within the Urban environment, expansion or redevelopment of existing development or structures may be allowed within the shoreline buffer under the following conditions:
 - a. New development or redevelopment may not encroach waterward of the existing structure's foundation walls; and

- b. For any new structure or expansion of an existing structure, in which the footprint of the expansion will increase total impervious surface in the buffer, the proponent shall enhance an equal area of the setback with native vegetation.

E. Critical Saltwater Habitat

1. Docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:
 - a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
 - b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
 - c. The project, including any required mitigation, will result in no net loss of ecological functions.
 - d. The project is consistent with the state's interest in resource protection and species recovery.
2. On state owned aquatic tide lands additional measures may apply.

4.4 Flood Hazard Management

4.4.1 Policies

1. The City should prevent the need for flood hazard reduction measures by limiting new development in flood-prone areas consistent with FEMA regulations and flood mapping.
2. All proposed development in the shoreline should comply with the City's flood hazard areas regulations in LMC 16.20.040 and LMC 15.24.
3. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood hazard reduction measures within a stream, channel migration zone, or floodway, or that would require new or expanded shoreline stabilization to prevent damage from coastal flooding, should not be allowed.
4. Structural flood hazard reduction measures should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

5. Structural flood hazard reduction measures to protect existing development should be permitted only when the primary use being protected is consistent with this Shoreline Master Program, and the measures can be developed in a manner that is compatible with multiple use of streams and associated resources for the long term, including shoreline ecological functions, fish and wildlife management, or recreation.
6. When reviewing projects that could be affected by sea level rise adjust development standards such as building setbacks or elevation as necessary to minimize potential damage from flooding.
7. Development of properties in the Langley West or Center reaches are encouraged to locate the bottom of a structure's foundation two feet higher than the required elevation established in Ch. 15.24 Flood Hazard Areas.

4.4.2 Regulations

1. All development in the shoreline shall comply with flood hazard areas regulations in LMC 16.20.040 and LMC 15.24.
2. In the event development or performance standards in LMC 16.20.040 and LMC 15.24 are inconsistent with standards and requirements in this Shoreline Master Program, the standard that is more protective of natural resources in the shoreline shall govern.
3. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood hazard reduction measures within a stream, channel migration zone, floodway, or coastal flood zone shall be prohibited.
4. Structural flood hazard reduction measures shall only be allowed in the shoreline if they are necessary to protect existing development and non-structural flood hazard reduction measures have been demonstrated to be infeasible by a scientific and engineering analysis.
5. Structural flood hazard reduction measures to protect existing development shall be permitted only when the primary use being protected is consistent with this Program, and the measures can be developed in a manner that is compatible with multiple use of shoreline resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation.

4.5 Public Access

4.5.1 Policies

1. Seek to maintain and enhance public access, both physical and visual, throughout the City's shoreline. Access should be provided for a range of users including pedestrians, bicyclists, boaters, swimmers and, to the extent feasible, people with

disabilities. Access opportunities should be varied, ranging from urban water walks to viewing platforms of natural areas.

2. Encourage the use of public access facilities to actively educate and inform the public on the importance of environmental protection of the shoreline jurisdiction.
3. Locate and design public access in a manner that does not interfere with ecological functions or wildlife habitat.
4. Link recreational and public access opportunities together via trails, beach walks and water routes whenever appropriate. Where practical, access points link to non-motorized transportation routes, such as bicycle and hiking paths, and kayak/canoe routes.
5. Along the Urban environments, seek a public pedestrian walkway system (dubbed urban water walk) utilizing a combination of natural beaches, pathways, piers, wharves, street-ends, sidewalks, stairways, or other improvements. Although it may not be feasible for the walkway system to be continuous along the water's edge throughout the entire area, it should promote quality pedestrian access to and along major portions of the waterfront. The public's ability to physically walk along the beach is a priority and thus extending boardwalks over the beach should be limited.
6. Require new development that impacts public access to mitigate through the provision of on-site visual and physical public access, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline. In lieu of on-site improvements, the Shoreline Administrator may allow for off-site improvements if said improvements would provide a greater public benefit (WAC 173-26-221(4)(c) and (d)).
7. Preserve and enhance public views from the shoreline upland areas. Enhancement of views should not be construed to mean excessive removal of native vegetation that partially impairs views.
8. Foster public access through a variety of approaches including purchase of key segments, encouraging public and private partnerships, and working with developers to explain the benefits of incorporating public access and recreation.
9. Preserve beach walks as unimproved public access. Beach walks are unmarked sections of intertidal land upon which the public has rights of passage in accordance with the Public Trust Doctrine. Beach walks by definition are usually not passable on a 24-hour basis due to tidal action.
10. Encourage the use of street ends and other publicly owned or controlled lands to increase public access to shoreline areas.
11. Develop street end access and viewpoints. Improvements to and linkages between these street-ends should be determined by the physical characteristics of the

shorelines, existing development patterns, potential for structural improvements, and other factors relevant to developing a continuous pedestrian system.

12. Ensure that use of street ends for parking does not physically block public access to the shoreline or degrade the scenic qualities of the City as viewed from the water.
13. Identify and bring into compliance uses that unlawfully encroach on public access areas, unless a street use agreement has been made between the City of Langley and the proponent of the use.
14. Develop a prioritized list of improvements to street ends. Cost effectiveness shall be a key element in prioritizing the proposed projects.

4.5.2 Regulations

A. General Regulations

1. Where feasible, new development, uses and activities shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.
2. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW 36.87.130).
3. Public access locations shall be clearly marked with visible signage.
4. Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.
5. The City should actively pursue public access to publicly owned tidelands and develop a coordinated system of linked public access wherever possible.
6. The City should prioritize developing a public access link between Seawall Park and the South Whidbey Harbor at Langley/Phil Simon Park through dedication and/or acquisition.
7. When public access is provided it shall be designed and located to achieve no net loss of existing shoreline ecological functions.
8. Public access sites shall be connected directly to adjacent public streets, trails, or walkways.
9. Public access sites shall be designed to accommodate for the level of expected sea-level rise in 2100. Consideration of sea level rise projections identified in the City of Langley Sea Level Rise Assessment (2021) may be used.

B. Public Access Required

1. Public access shall be required to the extent allowed by law in the review of all shoreline substantial development permits and shoreline conditional use permits in the following circumstances:
 - a. The use or development is a public project or funded by a public entity.
 - b. The proposed project is a non-water-dependent use or development.
 - c. The proposed project is a private water-oriented use or development and one of the following conditions exists:
 - i. The project increases or creates demand for public access;
 - ii. The project impacts or interferes with existing access by blocking access or discouraging use of existing access;
 - iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine.
2. If public access is required pursuant to SMP Section 4.5.2(B)(1)(c), the City shall impose permit conditions requiring public access that is roughly proportional to the impacts caused by the proposed use or development. The City bears the burden of demonstrating that any public access required pursuant to SMP Section 4.5.2(B)(1)(c) is roughly proportional to the impacts caused by the proposed use or development.
3. Public access to the shoreline shall not be required of the following:
 - a. Activities qualifying for a shoreline exemption, per SMP Section 7.5; or
 - b. Single-family residential development of four (4) or fewer units.

C. Access Preferences and Alternatives

1. When required, onsite, physical access is preferred consistent with the standards of this Program and consistent with planned public access identified in the City's Comprehensive Plan.
2. Required public access shall be commensurate with the scale and intensity of the proposed use or development.
3. New uses and developments that front on the shoreline and are required to provide public access subject to SMP 4.5.2(B)(1) shall provide continuous public access between the use and the water's edge.

4. Where public access between the use and the water's edge is not possible, access shall be required via trail linkages or access corridors through or from the proposed site and connecting to an adjacent public access way.
5. The Shoreline Administrator may approve alternatives to on-site, physical access to the shoreline if the applicant can demonstrate with substantial and credible evidence that one or more of the following conditions exist:
 - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
 - b. The configuration of existing parcels and structures, block potential access areas in such a way that cannot be reasonably remedied by the proposed development;
 - c. Public access will jeopardize inherent security requirements of the proposed development or use and the impacts on security cannot be satisfied through the application of alternative design features or other solutions;
 - d. The cost of providing on-site access or easement is unreasonably disproportionate to the total long-term cost of the proposed development;
 - e. Impacts to shoreline functions that cannot be mitigated will result from the public access; or
 - f. Public access is infeasible due to incompatible adjacent uses where the incompatibility cannot be mitigated.
6. Projects which meet the criteria in SMP 4.5.2(C)(5) must construct off-site public access improvements of comparable function and value to the public access that would otherwise be required on-site or contribute funds of equivalent value to a locally established public access fund that will be used for developing or enhancing public access facilities and/or linkages described in this Program or the City's Comprehensive Plan.

4.6 Archeological, Historic and Cultural Resources

4.6.1 Policies

1. Work toward implementation of the Natural Historic Preservation Act of 1966 and the Washington State Parks and Recreation Commission Act ((RCW 79A.05)and provide wherever possible for the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American, Washington State, or local history, architecture, archaeology, or culture.
2. Permanently preserve sites, where feasible, consistent with constitutional and statutory limitations, for scientific study and public observation.

3. Provide for site inspections and an evaluation of a professional archaeologist. Ensure that archaeological data is properly salvaged by attaching special conditions to development activities in areas known to contain archaeological data.
4. Private and public owners of historic sites should be encouraged to provide public access and educational opportunities in a manner consistent with long term protection of both historic values and shoreline ecological functions.
5. Prevent public or private developments from destroying or destructively altering potential or recognizable sites having historic, cultural, scientific, or educational value as identified by appropriate authorities wherever feasible, consistent with constitutional and statutory limitations.
6. Encourage the rehabilitation, renovation, and adaptive reuse of historic buildings.
7. Ensure that excavation activities are conducted in compliance with the applicable policies and standards of this Master Program.

4.6.2 Regulations

1. No development or substantial development shall be undertaken with regard to a site or structure that has probable historical, scientific, or archaeological significance until an evaluation of the site or structure has been made by an authority judged competent in such matters by the Shoreline Administrator.
2. All feasible means shall be employed to ensure that data, structures, and sites having historical, scientific, educational, or archaeological significance are extracted, preserved, or used in a manner commensurate with their importance.
3. All shoreline permits shall contain a provision requiring permittees to immediately stop work and notify the City, the State Department of Archaeology and Historic Preservation (DAHP), and affected Native American Tribes if human remains or archaeological resources are encountered during site disturbance, excavation or development. Archaeological sites are subject to Chapter 27.44 RCW (Indian graves and records) and Chapter 27.53 RCW (Archaeological sites and resources) and development or uses that may impact such sites shall comply with Chapter 25-48 WAC (Archaeological excavation and removal permit). If the event of inadvertent discovery of human skeletal remains, RCWs 68.50.645, 27.44.055 and 68.60.055 apply.
4. No permit for an application requiring an archaeologist's report will be issued prior to the receipt by the City of the required archaeological report and review and approval of the report by DAHP. All permits issued for development in areas known to be archaeologically significant shall provide for site inspection and reporting by a professional archaeologist during any development activity that is considered to have a high probability of encountering cultural resources.
5. All developments proposed for location adjacent to historical sites which are registered on the State or National Historic Register shall be located and designed

so as to be complementary to the historic site. Development which degrades or destroys the historic character of such sites shall not be permitted. Consult with the State Department of Archaeology and Historic Preservation (DAHP), tribal governments and professional consultants to review proposed project areas for potential valuable data and to establish procedures for salvaging that data.

6. Consistent with constitutional and statutory limitations, public and private developments shall be located and designed to prevent destruction and alteration of sites having historic, cultural, scientific, or educational value as identified by appropriate authorities.
7. The establishment, restoration, or revitalization of historical, archaeological, scientific, or educational facilities shall be done in such a manner that would cause minimal disturbance to adjacent properties as well as natural features of the shoreline.

4.7 Water Quality

4.7.1 Policies

1. This Program should, as stated in RCW 90.58.020, protect against adverse impacts to the public health; to the land, its vegetation and wildlife; and to the waters of the state and their aquatic life through implementation of the following principles:
 - a. Prevent impacts to water quality and surface water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational opportunities.
 - b. Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and surface water quantity. The regulations that are most protective of ecological functions shall apply.
 - c. The location, construction, operation and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long term.
 - d. Shoreline use and development should avoid the use of chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.
 - e. Existing public surface water management systems and facilities should be retrofitted and improved consistent with the City's Stormwater Management Plan and Engineering Design Standards. The City should also encourage utilization of Low Impact Development principles and practices.

- f. Effective erosion/sedimentation controls for construction in the shoreline areas should be required.
- g. The City encourages utilization of Low Impact Development principles and practices such as setbacks, retaining land cover, and reducing impervious areas, and special caution to avoid infiltration of stormwater in shoreline areas along marine bluffs. (See the current version of the Low Impact Development Technical Guidance Manual for Puget Sound as guidance in this regard.)

4.7.2 Regulations

1. Shoreline use and development shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws and in such a manner as to ensure no net loss of ecological function.
2. All development activities approved under this Shoreline Master Program shall be designed and maintained consistent with the City's Stormwater Management Plan and Engineering Design Standards.
3. As a condition of approval of a permit issued in accordance with this master program, the Shoreline Administrator may apply the following conditions to protect water quality:
 - a. The development, use or activity shall utilize Best Management Practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff to protect the quality and quantity of surface and ground water. Such measures may include but are not limited to catch basins or settling ponds, installation and required maintenance of oil/water separators, biofiltration swales, interceptor drains and landscaped buffers.
 - b. The release of oil, chemicals (including pesticides and herbicides), fertilizer or hazardous materials onto land or into the water is prohibited within the shoreline jurisdiction.
 - c. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
4. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent feasible throughout the various stages of development including site assessment, planning and design, vegetation management, retrofitting and built-out management techniques.

5. All materials that may come in contact with water shall be constructed of materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in or above shoreline water bodies.
6. All proposed developments shall include measures for the replanting of the site after construction in such a manner as to ensure no net loss of ecological function.
7. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shorelines without adequate secondary containment and an emergency spill response plan in place.

4.8 Shoreline Vegetation Management

4.8.1 Policies

1. New uses and developments should be designed to preserve native shoreline vegetation to maintain shoreline ecological functions and processes and prevent direct, indirect and/or cumulative impacts of shoreline development.
2. New uses and developments should establish native shoreline vegetation such that the composition, structure, and density of the plant community resemble a natural, unaltered shoreline as much as possible.
3. Limit removal of native vegetation to the minimum necessary to accommodate shoreline development.
4. Restrict native vegetation removal within shoreline jurisdiction in order to maintain shoreline functions, including protection of habitat and shoreline bluffs.
5. Maintaining well-vegetated shorelines is preferred over clearing vegetation to create views or provide lawns. Limited and selective clearing for views and lawns may be allowed when slope stability and ecological functions are not compromised, but landowners should not assume that creating an unobstructed view of the water will be allowed. Trimming and pruning are generally preferred over removal of native vegetation.
6. Property owners should be encouraged to avoid or minimize the use of fertilizers, herbicides and pesticides.
7. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat.
8. Non-native vegetation that requires use of fertilizers, herbicides, and/or pesticides is discouraged.

4.8.2 Regulations

1. Unless otherwise specified, all shoreline use and development, including preferred uses and uses exempt from permit requirements, shall comply with the buffer provisions of this Program (SMP 4.3.2) and LMC 16.20.045 to protect and maintain shoreline vegetation and habitat.
2. Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction as close to the ordinary high water mark as feasible.
3. Native plant materials that are equivalent to those which would typically occur with respect to size, structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement projects.
4. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section to ensure shoreline functions, values, and processes are maintained and preserved. A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline or any specific feature near or far.
5. Trimming of trees and vegetation is allowed within shoreline setback areas without a landscape plan, provided:
 - a. This provision is not interpreted to allow clearing of vegetation,
 - b. Trimming does not include topping, stripping or imbalances; a minimum of 60% of the original crown shall be retained to maintain tree health,
 - c. Trimming does not directly impact shoreline functions including fish and wildlife habitat,
 - d. Trimming is not within a wetland or wetland buffer, and
 - e. Trimming in landslide and erosion hazard areas does not impact soil stability.
 - f. Trimmings are removed and disposed of at an authorized upland location.
6. The Shoreline Administrator may deny a request or condition approval of vegetation management or removal proposals for view maintenance if it is determined the action will result in an adverse effect to any of the following:
 - a. Slope stability;
 - b. Habitat value;

- c. Health of surrounding vegetation;
 - d. Risk of wind damage to surrounding vegetation;
 - e. Nearby surface or ground water; or
 - f. Water quality of a nearby water body.
7. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline locations if native vegetation is promptly re-established in the disturbed area.
8. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a qualified professional.

4.9 View Protection

4.9.1 Policies

- 1. Development, uses and activities on or near the shoreline should not impair or detract from the public's visual access to the water.
- 2. Public views from the shoreline and upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation that partially impairs views.
- 3. Development in shoreline areas should consider the scale, arrangement and modulation of site buildings and elements to achieve a balance of open space and development.
- 4. Visual access should be maintained, enhanced and preserved on shoreline street ends, public utilities and rights-of way.

4.9.2 Regulations

- 1. Shoreline uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual access to the water and shorelines except as provided for in the Section 4.7 of this Program, Shoreline Vegetation Management.
- 2. Public lands such as street ends, rights-of-way and utilities shall provide visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130.
- 3. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed, either by clearing or by topping. Trimming and pruning shall

be preferred over removal of native shoreline vegetation. Significant vegetation removal, as defined in this SMP, shall not occur as part of providing visual access.

4. Visual access shall be maintained, enhanced and preserved on shoreline street ends, public utilities and rights of way.
5. Lighting shall be directed and shielded to avoid off-site glare.

4.10 Unclassified Uses

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Section 7.6.5 of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this program and RCW 90.58.020.

4.11 Shoreline Use and Standards Tables

All uses and developments in the Langley Shoreline jurisdiction shall comply with the use regulations and development standards contained in Table 1 and 2. Refer to the text section of this Program for all applicable provisions related to specific uses and development standards for shoreline developments and uses.

Table 1

City of Langley – Permitted Shoreline Uses

Land uses must be allowed in the underlying zoning district in addition to the Shoreline Environment Designation. See LMC Title 18 for specific land uses allowed in zoning districts. All uses are subject to limitations, conditions and/or exceptions as provided in this program and the Langley Land Use Code.

	Shoreline Environment Designation				
	Shoreline Residential	Urban	Aquatic		
			Conservancy	Urban	Boat Harbor
P = Permitted use subject to policies and regulations of Program					
CU = Conditional use subject to polices and regulations of this Program					
X = Prohibited use					
Uses					
Agriculture	X	X	X	X	X
Aquaculture ¹	CU	CU	CU	CU	CU
Boating Facilities (Marinas, launches, piers docks, floats and buoys)					
Marinas	X	P	X	P	P
Boat Launches	X	P	X	P	P
Buoys	P	P	P	P	P
Piers, Docks, and Floats	CU	P	CU	P	P
Commercial					
Water-oriented	X	P	X	CU	CU
Non-water-oriented	X	P	X	X	X
Industrial					
Water-Dependent	X	P	X	X	P
Water-Related	X	P	X	X	P
Water-enjoyment and non-water-oriented	X	X	X	X	X
Forest Practices					
Forest Practices	X	X	X	X	X
Habitat Restoration and Enhancement					
Mining	X	X	X	X	X
Recreation	P	P	CU	CU	CU

	Shoreline Environment Designation				
	Shoreline Residential	Urban	Aquatic		
			Conservancy	Urban	Boat Harbor
P = Permitted use subject to policies and regulations of Program					
CU = Conditional use subject to polices and regulations of this Program					
X = Prohibited use					
Residential					
Detached Single-family	P	P	X	X	X
Multi-family & Mixed Use	P	P	X	X	X
Transportation					
Roads	P	P	X	X	X
Railways/Tramways/Stairways	CU	P	X	X	X
Utilities	P	P	CU	CU	CU
Parking as a primary use ²	X	X	X	X	X
Shoreline Modifications					
New structural shoreline stabilization	CU	CU	CU	CU	CU
Maintenance of Existing structural stabilization	P	P	CU	CU	CU
New non-structural stabilization measures	P	P	P	P	P
Breakwaters, Jetties, Groins, and Weirs	X	X	X	CU	CU
Dredging					
Restoration-related	X	X	X	CU	CU
Non-restoration related	X	X	X	CU	CU
Fill and Excavation					
Restoration-related	X	X	CU	CU	CU
Non-restoration related landward of OHWM	X	CU	X	X	X
Non-restoration related waterward of OHWM	X	X	X	CU	CU

Notes:
¹ seeding/culturing for native population recovery with approved plan does not require a CUP per SMP 6.3.2(4)

² Parking associated with an allowed shoreline use is permitted in the shoreline

Table 2

City of Langley – Development Standards Table for Shoreline Environments

In addition to the development standards shown in this table, see LMC Title 18 for additional exceptions and specifications that may apply in certain circumstances. All uses are subject to limitations, conditions and/or exceptions as provided in this program and the Langley Municipal Code.

	Shoreline Residential	Urban
RS = Residential Single Family NB = Neighborhood Business CB = Central Business P-1 = Public Use		
Development Standard		
Marine Buffer	Refer to SMP 4.3.2(C) and LMC 16.20.045(C)(a) ¹	25 feet
Minimum Lot Size	RS 5,000: 5,000 sf RS 7,200: 7,200 sf RS 15,000: 15,000 sf	CB: None NB: 5,000 sf P-1: None ²
Maximum Density	N/A	CB: None NB: 15 du/ac P-1: None
Maximum Lot Coverage	25% - 40% ³	CB: None NB: None ⁴ P-1: None
Maximum Height	30 feet ⁵	CB: 25 to 47 feet ⁶ NB: 30 feet ⁷ P-1: 35 feet
Front Setback ¹¹	20 feet	CB: None ⁸ NB: None ⁹ P-1: 25 – 50 feet ¹⁰
Rear Setback	Refer to SMP 4.3.2(C) and LMC 16.20.045(C)(a)	Refer to SMP 4.3.2(C)(2)
Side Setback	RS 5,000: 5 feet RS 7,200: 5 feet RS 15,000: 10 feet	CB: None ⁸ NB: None ⁹ P-1: 25 feet ¹⁰
Notes: ¹ LMC 16.20.045(C)(1)(a) establishes a minimum buffer of 50 feet from the top or toe of steep slopes. A building setback of 15 feet from the edge of the buffer is also required. Therefore, no primary structure is permitted within 65 feet of the top of a steep slope. In the absence of a steep slope, the 50 foot marine buffer starts at the OHWM. ² Or as specified in LMC 18.19.050. ³ For lots ≤ 10,000sf: 40%; for lots 10,000sf – 1ac: 40% for the first 10,000sf and 30% for all area over 10,000 square feet; for lots > 1ac: 25%. ⁴ Except as required by LMC 18.18.065 and 18.18.070. ⁵ And/or as specified in LMC 18.06.060, 18.07.060 and 18.08.060. ⁶ Or as specified in LMC 18.16.070 and 18.16.075. ⁷ Or as specified in LMC 18.16.060.		

⁸ Or as specified in LMC 18.16.080.

⁹ Or as specified in LMC 18.16.070.

¹⁰ Or as specified in LMC 18.19.060.

¹¹ Front setback means a line measured from the street lot line delineating the minimum distance from which buildings and/or other structures are to be set back from.

CHAPTER 5. SHORELINE MODIFICATION POLICIES AND REGULATIONS

5.1 Shoreline Stabilization

5.1.1 Policies

1. New development activities should be located and designed to prevent or minimize the need for shoreline stabilization measures.
2. Non-structural measures to avoid the need for shoreline stabilization, including relocating structures, increasing buffers, enhancing vegetation, managing drainage and runoff and other measures are preferred over structural shoreline armoring.
3. Soft-shore bank stabilization or bioengineering methods are preferred over the use of hard structural stabilization methods. These methods include but are not limited to, gravel placement, anchor trees or logs, beach enhancement and restoration, and vegetation enhancement.
4. An existing shoreline stabilization structure may be replaced with a similar structure only if a demonstration of need to protect the primary structure from shoreline erosion caused by tidal action, currents, or waves.
5. When permitted, shoreline stabilization structures should be only for the purpose of protecting existing structures and property improvements and not for the purpose of creating new upland areas.
6. The design of bulkheads should incorporate any provisions required by the Washington State Department of Fish and Wildlife.
7. Shore defense works that interfere with natural shoreline processes, marine and wildlife habitats or fish movement should be discouraged.
8. Any new shoreline stabilization measure or modifications to existing measures shall consider adaptation to sea-level rise and other climate change impacts to promote resiliency of upland development.

5.1.2 Regulations

1. New structural shoreline armoring may be permitted and existing structural shoreline armoring may be expanded when one or more of the following apply:
 - a. When necessary to support a project whose primary purpose is enhancing or restoring ecological functions;
 - b. When necessary to protect public transportation infrastructure or essential public facilities and other options are infeasible; or

- c. When necessary to protect a water-dependent use or an existing, lawfully established, primary structure, including a residence that is in imminent danger of loss or substantial damage from erosion caused by tidal action, currents, or waves as demonstrated by a geotechnical analysis.
2. New structural shoreline armoring shall be allowed only when non-structural shoreline protection, soft-shore restoration or modification techniques have been shown to be ineffective or unworkable in protecting existing development and evidence is presented that serious erosion is threatening an established structure on the subject property.
3.
 - a. An existing shoreline stabilization structure may be replaced if there is a demonstrated need to protect uses or structures from erosion caused by currents, tidal action or waves. The replacement structure shall be designed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structure, unless the residence was occupied prior to January 1, 1992 or for soft shoreline stabilization measures that provide restoration of ecological functions or there are overriding safety or environmental concerns. In such cases, the replacement structure shall be adjacent to the existing structure.
 - b. Partial modification of stabilization measures (e.g., fill, construction of protective berms) within the shoreline jurisdiction shall be allowed in response to increases in sea level, subject to all other provisions of the SMP.
4. All shoreline stabilization shall be designed, located, and mitigated, consistent with SMP 4.3.2, to achieve no net loss of ecological functions.
5. All shoreline stabilization measures shall be constructed to minimize damage to fish and shellfish habitat, shall avoid or minimize impacts to natural sediment transport, and shall conform to the requirements of the Washington Department of Fish and Wildlife Hydraulics Code.
6. New development, including newly created parcels, shall be designed and located so as to preclude the need for future shoreline stabilization over the life of the structure.
7. New development that would require shoreline stabilization which is likely to cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.
8. Shoreline stabilization structures shall not be permitted for the direct or indirect purpose of creating land by filling behind the structure.

9. Beach materials shall not be used for fill behind bulkheads, other than clean dredge materials from a permitted dredge and fill operation and materials excavated during construction of the bulkheads.
10. Shoreline stabilization shall not be permitted on accretions shore forms; except when it can be demonstrated that construction of the shore defense works are absolutely necessary for the protection of existing structures.
11. Shoreline stabilization shall not be permitted on marine feeder bluffs, as designated by the Department of Ecology Coastal Zone Atlas or by other sources; except when it can be demonstrated by a professional engineer or geologist that construction will not seriously disrupt the upland feeding action or littoral drift and where it is demonstrated that structural shoreline stabilization is necessary for the protection of existing structures.
12. Proposals for new, expanded, or replacement structural shoreline armoring permitted under this Program shall clearly demonstrate all of the following:
 - a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;
 - b. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;
 - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves; and
 - d. The erosion control structure will not result in a net loss of shoreline ecological functions.
13. The City shall require applicants for new, expanded, or replacement structural shoreline armoring to provide credible evidence of erosion as the basis for documenting that the primary structure is in imminent danger from shoreline erosion caused by tidal action, currents, or waves. The evidence shall:
 - a. Demonstrate that the erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope; and
 - b. Include an assessment of on-site drainage and vegetation characteristics and their effects on slope stability.
14. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard structural

stabilization measures should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural stabilization measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. All geotechnical reports shall also identify any potential impacts to adjacent or down-current properties and shoreline areas.

15. Applications for Shoreline stabilization shall contain the following information:

- a. Type of construction;
- b. Elevation of the toe and crest of the bulkhead with respect to water levels;
- c. Purpose of the bulkhead or structure;
- d. Direction of net longshore drift when appropriate;
- e. Normal low and high water elevations when appropriate;
- f. Demonstration of the technical evidence required indicating the need shore defense works;
- g. Analysis of shoreline stabilization alternatives (see 1. And 2. Above);
- h. Other information including biological or geotechnical studies as determined appropriate by the Shoreline Administrator; and
- i. The size of the shoreline stabilization structures shall be the minimum necessary to protect the primary use or structure. Consideration of sea level rise projections identified in the City of Langley Sea Level Rise Assessment (2021) may be used to determine the minimum necessary size of shoreline stabilization structures.

16. In order for a proposed bulkhead to qualify for a permit exemption as provided by the Shoreline Management Act, RCW 90.58, for bulkheads associated with an established single-family residence, the Shoreline Administrator shall review the proposed design as it relates to local physical conditions and this Master Program and must find that erosion is threatening a residence, accessory or appurtenant structure that cannot be relocated.

17. Shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM.

18. In circumstances where the lots on either side have legally established bulkheads, a bulkhead may be permitted; provided that the horizontal distance between the existing bulkheads does not exceed one-hundred-twenty (120) feet, the bulkheads

will be interconnected and the proposed bulkhead is located at or near the ordinary high water mark.

19. Construction of structural shoreline stabilization to protect a platted lot where no primary use or structure presently exists shall be prohibited except where all economic use of the property is threatened and it is demonstrated that non-structural measures will not perform adequately.
20. If a bulkhead is employed as a shore defense work in compliance with the policies and regulations of this Program, the following design criteria shall be met:
 - a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the shoreline hydraulic system;
 - b. Filter cloth or adequate smaller filter rock shall be used to aid drainage and help prevent settling;
 - c. The toe reinforcement or protection must be adequate to prevent a collapse of the system from wave action, overtopping, scouring, and upland erosion;
 - d. The material used in construction shall be non-toxic to marine organisms;
 - e. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil materials; and
 - f. The size of the bulkhead shall be the minimum necessary to protect the primary use or structure. Consideration of sea level rise projections identified in the City of Langley Sea Level Rise Assessment (2021) may be used to determine the minimum necessary size of shoreline stabilization structures.
21. All structural shoreline stabilization works shall be sited and designed consistent with appropriate engineering principles. Professional geological site studies or professionally engineered designs may be required for any proposed bulkhead or other structural shoreline stabilization if the City determines sufficient uncertainties or potential for damage to other shoreline properties and features exist.
22. Rock and timber bulkheads are preferred over smooth-face vertical or concrete bulkheads. Where pre-cast concrete slabs with vertical waterward faces are employed, adequate tiebacks and toe protection shall be provided.
23. Stairs and ramps may be built into a bulkhead but shall not extend waterward of it.
24. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.

25. Public access is required, where feasible, as part of any shoreline stabilization construction or replacement project on public land or using public funds.

5.2 Breakwaters, Jetties and Groins

5.2.1 Policies

1. Breakwaters should be permitted only for water-dependent uses when the benefits to the region outweigh local resource losses and restrictions on public navigation resulting from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.
2. Floating breakwaters are preferred to solid landfill types in order to maintain sediment movement and nearshore habitat.
3. Solid breakwaters shall be constructed only where design modifications can eliminate potentially detrimental impacts on the movement of sediment and circulation of water.
4. Jetties and groins should be discouraged and allowed only as a conditional use in conjunction with an approved water-dependent use.

5.2.2 Regulations

1. Floating breakwaters shall be used in place of fixed types, where they can withstand extensive wave action, in order to maintain sediment movement, fish habitat, and water circulation. Fixed breakwaters shall be permitted only where design can maintain desired movement of sediment and circulation of water.
2. Breakwaters, jetties, groins, and weirs waterward of the OHWM are permitted only for water-dependent uses, public access, or other specific public purpose; protection of critical areas and appropriate mitigation is required.
3. A shoreline conditional use permit is required for all breakwaters, jetties, groins and weirs.
4. The construction of breakwaters, jetties, groins and weirs shall be permitted only in cases where overall public benefit can be demonstrated.
5. Breakwaters and jetties shall incorporate public access to the maximum extent feasible.
6. Construction of breakwaters, jetties and groins shall not create significant interference with the public use of the water surface.
7. The effect on sediment movement shall be a primary consideration in the evaluation of proposed jetties or groins. Provision shall be made to minimize potential adverse effects on natural systems caused by jetties or groins, and costs of mitigating damages which do occur shall be borne by the project applicant.

5.3 Moorage Facilities (Piers and Docks)

5.3.1 Policies

1. Because of the adverse effects on nearshore habitats including critical saltwater habitat of overwater structures, limit docks, piers and floats to those required as part of a use permitted or conditionally permitted per Section 4.11 of this Program.
2. Prohibit docks, piers and floats located outside of the South Whidbey Harbor at Langley to be used for permanent moorage of occupied boats (i.e., liveaboards).
3. Moorage associated with a single-family residence is considered a water-dependent use provided it is designed and used as a facility to access watercraft when nearby moorage facilities are not available or feasible.
4. To minimize the impacts associated with private docks, piers, floats, boat lifts, and launch ramps and rails accessory to residential development:
 - a. Mooring buoys are generally preferred over docks, piers or floats;
 - b. Shared boating facilities serving multiple properties are preferred over facilities serving only a single property or parcel;
 - c. Public boat launches are preferred over private launch facilities;
5. Moorage for water-related and water-enjoyment uses should be allowed only as part of a mixed use development and should include public access.
6. Moorage facilities should be located, designed, constructed, and operated with appropriate mitigation to avoid adverse effects on shoreline functions and processes, including currents and littoral drift, and to prevent conflicts with other allowed uses.
7. Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.
8. Docks and piers should not be allowed where shallow depths require excessive overwater pier length or dredging.
9. Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length and width of piers and docks should be no greater than that required for safety and practicality for the primary use.
10. Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.

11. Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.
12. New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.

5.3.2 Regulations

1. Docks and piers associated with single-family residences may be approved as a conditional use when it can be shown that existing facilities are not adequate, feasible or available for joint use and the possibility of a multi-owner or multi-user facility has been investigated.
2. New over-water structures shall only be allowed for water-dependent uses, restoration projects, public access, public recreation such as fishing piers or emergency egress within the Aquatic Conservancy, Aquatic Urban or Aquatic Boat Harbor districts.
3. Piers and docks shall be located and designed in a manner so as not to interfere with geohydraulic shoreline processes.
4. Lighting on all piers and docks shall comply with section 6.4.2(E) of this Program.
5. The location and design of docks and piers, as well as the subsequent use, shall minimize adverse effects to fish, shellfish, wildlife, critical saltwater habitat and water quality and shall not result in a loss of shoreline ecological function.
6. Docks and piers shall be located, designed, and operated so as not to interfere with rights of adjacent property owners, navigation, or adjacent water uses.
7. All docks and piers shall be constructed consistent with state and federal requirements.
8. Docks, piers and floats located outside of the South Whidbey Harbor at Langley shall not be used for permanent moorage of occupied boats (i.e., liveaboards).
9. Each dock or pier proposal shall be evaluated on the basis of multiple considerations, including but not necessarily limited to the potential and cumulative impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, critical saltwater habitat, navigation, scenic views, and public access to the shoreline and the best available background information on tidal currents, wave height, and prevailing storm wind conditions.
10. New docks, piers, and floats associated with residential uses on marine waters shall be the minimum size required to provide for moorage.

11. Single family piers or docks shall not exceed ninety (90) feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to one hundred ten (110) feet in length if demonstrated to be necessary to provide adequate moorage.
12. Residential floats shall be limited to 200 square feet and shall be grated to provide at least a forty-five percent (45%) open surface area.
13. New residential piers, docks, and floats on marine waters shall have a maximum width of four feet. Walkways shall be grated to provide at least a forty-five percent (45%) open surface area. Standards for piers, docks and floats at Boating Facilities can be found in Section 6.4.
14. For commercial and industrial uses, docks and piers are only allowed for water dependent uses and shall be the minimum size necessary to accommodate the proposed use.
15. Commercial and industrial docks upon which toxic or flammable materials are handled or stored shall make adequate provisions to minimize the probability of spill. Adequate provision shall be made to control accidental spills that do occur.
16. Private, noncommercial docks for individual residential or community use shall be allowed if the following criteria are met:
 - a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible; and
 - b. The project including any required mitigation will result in no net loss of ecological functions.
17. All docks, piers, floats, and similar devices shall be designed and located so as not to be a hazard to navigation and so marked as to prevent a hazard to navigation at any time during the day or night.
18. All floats and floating docks shall include stops to keep the floats off the tidelands at low tide.
19. For new waterfront subdivisions, multi-family residences, and inns, only joint use docks and piers may be permitted.
20. Unsafe docks and piers shall be removed or repaired promptly by the owner.
21. Docks and piers shall comply with the following design standards:
 - a. Designed and constructed to avoid or, if that is not possible, to minimize shading and other impacts on nearshore habitats and processes;
 - b. Pilings must be structurally sound prior to placement in the water;

- c. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, containment features in the design of the structures shall be required;
 - d. Docks and piers shall be spaced and oriented to shoreline in a manner that minimizes hazards and obstructions to navigation, fishing, swimming, and pleasure boating;
 - e. Overhead wiring or plumbing is not permitted on piers or docks;
 - f. Dock lighting shall be designed to shine downward but not on the surface of the water, be of low wattage, and shall not exceed a height of three feet above the dock surface;
 - g. All construction-related debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly.
 - h. Where feasible, floats shall be secured with anchored cables in place of pilings.
 - i. Piles, floats or other members in direct contact with water shall be approved by applicable state agencies for use in water and shall not be treated or coated with biocides such as paint, or pentachlorophenol. Use of arsenate compounds or creosote treated members is prohibited. Steel is preferred.
22. Docks and piers shall not extend beyond the inner harbor line.
23. Docks and floats shall not extend more than three feet in height above the water.
24. In determining the appropriate height of a proposed pier, the following shall be taken into consideration: shading of critical saltwater habitats, passage below the structure for non-motorized recreational vessels, and aesthetics.

5.4 Fill and Excavation

5.4.1 Policies

1. Filling and excavation should only be allowed waterward of the ordinary high water mark when alternatives are infeasible and when the filling or excavation is:
 - a. Necessary to support an approved water-dependent use or essential public facility; or
 - b. Part of an approved ecological restoration or enhancement project; or
 - c. For soft-shore stabilization; or
 - d. Part of an approved beach nourishment project; or
 - e. Required to provide public access for a substantial number of people.

2. The extent of fill and excavation allowed should only be the minimum necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.
3. Shoreline fills or cuts should be designed and located so that significant damage to shoreline ecological functions or natural resources or alteration of local currents or littoral drift will not occur, resulting in the creation of a hazard to adjacent property, life, and natural resource systems.
4. Fill materials should be of such quality that they will not cause undue degradation of water quality.
5. The use of open pile piers or similar structures is preferred over landfills in order to protect marine resources and minimize interference with littoral drift.
6. The following factors should be evaluated for proposed landfills:
 - a. Total water surface reduction.
 - b. Navigation restriction.
 - c. Impediment to water flow and circulation.
 - d. Impacts on water quality.
 - e. Destruction of habitat.
7. When permitted, landfill should be the minimum necessary to accommodate the proposed use.
8. Filling and excavation should not be allowed where structural shoreline stabilization would be required to maintain the materials placed or excavated.
9. Beach material from tidelands and beds should generally not be used to backfill bulkheads and seawalls.
10. When filling on tidelands is permitted, provisions to stabilize fill material will be required. Preference should be given to provisions that have a lesser impact on ecological functions.
11. Sanitary landfills and the disposal of solid waste should be prohibited within the shoreline jurisdiction.

5.4.2 Regulations

1. Fill shall be permitted only where it is demonstrated that the project has been located, designed, and constructed in a manner that minimizes impacts to ecological processes and functions and where impacts cannot be avoided, mitigation is provided to achieve no net loss.

2. Fill shall be the minimum necessary to accommodate a proposed use.
3. Fill may be permitted below the Ordinary High Water Mark by conditional use permit only:
 - a. When necessary to support a water-dependent use;
 - b. To provide for public access;
 - c. When necessary to mitigate conditions that endanger public safety;
 - d. To allow for cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan;
 - e. To allow for the disposal of dredged material considered suitable under, and conducted in accordance with the in accordance with DNR Dredged Material Management Program;
 - f. For expansion or alteration of transportation facilities of statewide significance or utility facilities currently located on the shoreline and then only upon demonstration that alternatives to fill are not feasible; or
 - g. As part of mitigation actions, shoreline restoration, or habitat enhancement projects.
4. Fill for the sole purpose of creating upland areas is prohibited.
5. Minor amounts of fill (not exceeding one cubic yard per lineal foot of the proposed structure) may be permitted to backfill behind permitted shore defense works.
6. Fill material shall be of a quality and placed and contained in a manner that prevents water quality degradation. Junk, garbage and potentially hazardous materials shall not be used as fill material.
7. Applications which include fill shall include the following information:
 - a. The physical, chemical and biological character of the fill material;
 - b. Source of the fill material;
 - c. Method of placement and compaction;
 - d. Method of perimeter erosion control;
 - e. Total water surface reduction;
 - f. Navigation restriction;

- g. Impediment to water flow and circulation; and
 - h. Impacts on water quality, marine life and organisms.
8. Fills shall be stabilized to prevent material movement, erosion, and sedimentation from the affected area.
 9. Sanitary fill sites are prohibited within all shoreline designations.

5.5 Dredging and Dredge Material Disposal

5.5.1 Policies

1. Dredging should only be allowed to maintain navigation.
2. New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.
3. Dredging bottom materials for the sole purpose of obtaining fill should not be allowed.
4. Any allowed dredging should include measures to mitigate impacts to existing shoreline ecological functions, critical saltwater habitat, and natural resources of both the area to be dredged and the area for deposit of dredged materials to achieve no net loss of shoreline functions.
5. Dredging operations should minimize interference with navigation and adverse impacts on other shoreline uses and properties.
6. Dredging of bottom materials for the single purpose of obtaining fill should be prohibited except when the material is necessary to restore ecological functions associated with a Model Toxics Control Act (MTCA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) habitat restoration project.

5.5.2 Regulations

1. New development shall be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.
2. Dredging and dredged material disposal below the Ordinary High Water Mark shall be permitted only:
 - a. When necessary for the operation of a water-dependent use; or
 - b. When necessary to mitigate conditions that endanger public safety or fisheries resources; or

- c. To maintain marina facilities;
 - d. For establishing, maintaining, expanding, relocating or reconfiguring navigation channels and basins when necessary to ensure safe and efficient accommodation of existing navigation uses when:
 - i. Significant ecological impacts are minimized;
 - ii. Mitigation is provided, employing the mitigation sequence in SMP 4.3.2; and
 - iii. Dredging is maintained to the existing authorized location, depth and width;
 - e. For restoration projects associated with implementation of the Model Toxics Control Act (MTCA) or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or any enhancement or restoration project.
- 3. Dredging shall minimize disruption to shoreline geohydraulic processes, impacts on water quality and impacts on marine habitat.
 - 4. Maintenance dredging associated with an authorized use, though exempt from a substantial development permit, shall only be conducted upon the completion of a dredge materials management plan for the site based on compliance with the policies and performance standards of this Program.
 - 5. Dredging is not allowed waterward of the ordinary high water mark for the primary purpose of obtaining fill material.
 - 6. Applications for shoreline dredging and dredge spoil disposal shall provide, at a minimum, the following information:
 - a. Physical, chemical, and biological analysis of material to be dredged, including material composition, particle size distribution, volume and amount, organic content, source of material, volatile solids, chemical oxygen demand (COD), grease and oil, oxygen and heavy metals, nutrients, sulfides and biological organisms, both permanent and migratory/transitory.
 - b. Dredging technique, schedule, frequency, hours of operation, and procedures.
 - c. Method of dredge spoils disposal, including the location, size, capacity and physical characteristics of the soil disposal area, transportation method and routes, hours of operation, and schedule.
 - d. Demonstration that the sediment meets all state standards (e.g., a letter from the appropriate regulatory agency (ies)) that the sediment meets all applicable standards for placement at the proposed location. Assessment of water quality impacts shall be included as an attachment.

- e. Location and stability of bedlands adjacent to proposed dredging area.
 - f. Hydraulic analyses, including current flows, direction, and projected impacts. Hydraulic modeling studies are required for large scale, extensive dredging and/or disposal projects.
 - g. Biological assessment including migratory, seasonal, and spawning factors.
7. Proposals that cause substrate displacement or that involve substrate modification through dredging, trenching, or digging shall not be allowed in existing kelp or eelgrass beds or other critical saltwater habitat without an approved mitigation plan.
8. Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts and impacts, which cannot be avoided, shall be mitigated in a manner that assures no net loss of shoreline ecological functions. Analysis of proposed dredging or dredge disposal shall include but is not limited to a review of:
- a. Conformance with the no net loss standard for ecological processes and functions;
 - b. Potential damage to water quality, fish, shellfish, critical fish habitat and other essential biological elements;
 - c. Adverse impacts to natural drainage and circulation patterns, and currents, impacts to properly functioning conditions for proposed, threatened or endangered species or the functions and values of critical areas;
 - d. Potential impacts to natural geohydraulic processes;
 - e. Interference of navigation or use or value of adjacent properties; and
 - f. Compliance with all requirements of applicable regulatory agencies.
9. Dredging shall not cause unnecessary interference with navigation or infringement upon adjacent shoreline uses and properties.
10. Dredge materials shall be deposited on upland sites wherever possible and only as sites authorized by a Shoreline Substantial Development Permit. Applicants shall provide the City with evidence of all necessary permits prior to commencement of operations.
11. Dredge materials shall be tested for the presence of hazardous materials prior to permit approval.
12. Dredge materials deposited on upland sites shall constitute landfill and shall comply with all applicable regulations.

5.6 Clearing and Grading

5.6.1 Policies

1. Commercial timber harvest is not an appropriate use on the shorelines in the City of Langley.
2. Tree cutting within the shoreline jurisdiction should be limited to the areas necessary for approved developments and consistent with other policies intended to protect shoreline vegetation, as well as other applicable City regulations. Trees located along marine bluffs should be preserved. Limbing rather than removal is the preferred method for maintaining views. All activities affecting vegetation on marine bluffs are subject to the Resource Lands and Environmentally Sensitive (Critical) Areas Management regulations contained in Chapter 16.20 LMC.

5.6.2 Regulations

1. Clearing and grading activities are allowed only if:
 - a. Associated with an approved shoreline development;
 - b. The clearing is the minimum necessary to accommodate the proposed development;
 - c. Conducted landward of all required setbacks;
 - d. That erosion control measures have been reviewed and approved by the Shoreline Administrator.
2. Clearing and grading activities shall comply with all City regulations including those for Resource Lands and Environmentally Sensitive (Critical) Area Management regulations contained in Chapter 16.20 LMC.
3. When approved, tree removal on steep slopes and marine bluffs shall be conducted in a manner that does not decrease bluff stability or cause erosion.
4. Disturbed areas not converted to another use shall be replanted with native species within six (6) months according to a landscaping plan and the vegetation shall be fully re-established within five (5) years. The City may require a performance bond assuring compliance.

5.7 Restoration and Ecological Enhancement Projects

5.7.1 Policies

1. Ecological restoration activities are encouraged in all shoreline environments and are considered to be consistent with all uses including residential, commercial, and industrial, provided they are designed appropriately.

2. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted toward meeting the needs of endangered, threatened, and regionally important plant, fish, and wildlife species.
3. Restoration should be integrated with and should support other watershed based natural resource management efforts in the City, Island County and in the Puget Sound region.
4. When prioritizing restoration actions, the City should give highest priority to measures listed in the shoreline restoration plan that have the greatest chance of reestablishing ecosystem processes and creating self-sustaining habitats.
5. Educate landowners on the preferential tax incentive in coordination with the County through the Public Benefit Rating System administered by the County under the Open Space Taxation Act (RCW 84.34) to encourage private landowners to preserve natural shoreline features for “open space” tax relief.
6. Beach enhancement in all environments should only be allowed for restoration, enhancement or maintenance of natural resources.
7. Beach enhancement may be permitted when the applicant has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitats.

5.7.2 Regulations

1. Restoration projects on shorelines of the state shall be allowed provided it is carried out in accordance with a city or state approved restoration plan and in accordance with the policies and regulations of this Program.
2. Restoration projects shall be designed such that there are no adverse impacts on ecological resources or functions.
3. Ecological restoration and enhancement shall be approached on a watershed basis and shall seek to promote an ecosystem or landscape approach, including integrating projects into their surrounding environments.
4. To the greatest extent feasible, ecological restoration and enhancement projects shall be protected in perpetuity. If future development proposes to impact existing ecological restoration and enhancement sites, it must be demonstrated that there are no practicable alternatives to avoid adverse impacts, and further, that adequate mitigation is provided to address unavoidable losses.
5. Ecological restoration and enhancement actions shall demonstrate that they are based on sound scientific principles and are compatible with the functions of nearby restoration and enhancement sites.
6. Beach enhancement in all environments shall be undertaken only for restoration, enhancement or maintenance of natural resources and only when the applicant

has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitats.

7. Natural Beach Restoration/Enhancement design alternatives shall include the best available technology such as, but not limited to gravel berms, drift sills, beach nourishment, natural re-vegetation and maintained plantings, deposition of drift logs and/or large woody organic debris to stabilize the back shore or protect the toe of eroding bluffs.
8. Natural Beach Restoration/Enhancement shall not:
 - a. Detrimentially interrupt littoral drift, or redirect waves, current or sediments to other shorelines;
 - b. Result in any exposed groin-like structures; provided that small "drift sill" groins may be used as a means of stabilizing restored sediment where part of a well planned community beach restoration program;
 - c. Extend water ward more than the minimum amount necessary to achieve the desired stabilization;
 - d. Result in contours sufficiently steep to impede easy pedestrian passage, or trap drifting sediments;
 - e. Create additional dry land mass; and
 - f. Cause irreversible long-term loss of near-shore habitat.
9. The size and mix of new materials to be added to a beach as part of an approved beach restoration program shall be as similar as possible to the natural beach sediment, but large enough to resist normal current, wake or wave action at the site.
10. Beach enhancement shall be designed to minimize adverse impacts on spawning, nesting, or breeding habitat and so that littoral drift of the materials enhancement shall not adversely affect adjacent spawning grounds or other areas of biological significance.
11. The Shoreline Administrator may grant relief from the standards and use regulations of this Program, consistent with RCW 90.58.580 and WAC 173-26-215, when a shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in the following:
 - a. Land that had not been regulated under this Program prior to construction of the restoration project is brought under shoreline jurisdiction; or

- b. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable shoreline master program; and
- c. Application of this Program's regulations would preclude or interfere with use of the property permitted by the City, thus presenting a hardship to the project proponent;

12. The proposed relief must meet the following criteria:

- a. The proposed relief is the minimum necessary to relieve the hardship;
- b. After granting the proposed relief, there is net environmental benefit from the restoration project;
- c. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program; and

13. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.

14. The application for relief must be submitted to the Department of Ecology for written approval or disapproval. This review must occur during the department's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then the department shall conduct its review when the local government provides a copy of a complete application and all supporting information necessary to conduct the review.

CHAPTER 6. SPECIFIC SHORELINE USE POLICIES AND REGULATIONS

6.1 Prohibited Uses

The following uses are prohibited in all shoreline environments:

1. Mining; and
2. Forest practices.

6.2 Agriculture

6.2.1 Policies

1. Agriculture as a primary use should be prohibited in all shoreline environments.

6.2.2 Regulations

1. Agricultural development as a primary use shall be prohibited in all shoreline environments.
2. Any water discharge from agricultural activities into SMP water bodies shall be prohibited.

6.3 Aquaculture

6.3.1 Policies

1. Per (WAC 173-26-241(3)(b)(i)(A)), aquaculture is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.
2. Because of the developed nature of Langley's shorelines, proposals for aquaculture should be reviewed carefully and allowed only as a conditional use in the shoreline.
3. Non-commercial aquaculture by a public agency for recovery of a native population is preferred and should be allowed in all environments.
4. Ensure aquaculture developments are located, designed, and operated in a manner that is compatible with all standards in this SMP, including mitigation sequencing and that will not result in a net loss of shoreline function.
5. Aquaculture should not be allowed in the following areas:
 - a. Areas that have little natural potential for the type of aquaculture under consideration.

- b. Areas with water quality problems that are unsuitable for the type of aquaculture being proposed.
 - c. Areas where aquaculture would conflict with other users of the public waters including navigation, sport and commercial fishing, research, and recreation.
 - d. Areas where the design and placement of aquaculture facilities would substantially degrade the aesthetic qualities of the shorelines and water areas.
6. Aquaculture facilities should be designed and located such that they do not spread disease to native aquatic life, establish nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

6.3.2 Regulations

- 1. Commercial aquacultural development and uses shall only be allowed as a conditional use.
- 2. All aquacultural facilities and activities shall be located and designed in consideration of local ecological conditions; shall not adversely impacts eelgrass, and/or macroalgae and/or critical saltwater habitat; and shall demonstrate that the operation of the facility or activity will not result in a net loss of shoreline function.
- 3. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the project proponent and the Affected Tribes(s).
- 4. Shellfish seeding/culturing shall be a permitted use in all environments when conducted for native population recovery in accordance with a government or Tribal approved plan. All other aquaculture developments and activities, including fish pens and commercial shellfish seeding/culturing, shall require a conditional use permit.
- 5. Proposals for aquacultural uses shall demonstrate that they will not spread disease to native marine or aquatic life or establish new nonnative species which cause significant ecological impacts.
- 6. All unavoidable impacts remaining after application of mitigation sequencing must be mitigated to achieve no net loss.
- 7. Aquacultural facilities shall not significantly impact the aesthetic qualities of the shoreline.
- 8. New aquatic species that are not previously cultivated in Washington State shall not be introduced into the City's waters without an approved shoreline conditional use permit and approval by the Director of the Washington Department of Fish and Wildlife and the Director of the Washington Department of Health.

9. Floating and submerged aquaculture structures shall be located so as to not unduly restrict navigational access to waterfront property nor to interfere with general navigation, other water-dependent uses, or normal public use of the surface waters.
10. All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.
11. New commercial geoduck aquacultural proposals shall require a conditional use permit. Proposals to convert existing nongeoduck aquaculture to geoduck aquaculture shall also require a conditional use permit.
12. Commercial geoduck aquaculture shall only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading and shall not interfere with normal public use of surface waters or pose a threat to marine or nearshore habitat.
13. Commercial geoduck aquaculture submittals and permits will be administered consistent with the specific provisions contained in WAC 173-26-241(3)(b)(ii)-(iv).
14. Aquaculture that involves little or no substrate modification shall be given preference over those that involve substantial modification. The applicant shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible operation of the use.
15. Aquaculture proposals that hydraulically, mechanically, or by commercial digging (except traditional low impact hand implement digging), displace or disturb bottom sediments through dredging, trenching, or excavation shall be designed to minimize harm to aquatic habitat.
16. Aquaculture structures constructed on public tidelands shall be located so as to not unduly restrict pedestrian circulation along public beaches.
17. No processing of any aquaculture product, except for the sorting or culling of the cultured organisms and the washing or removal of surface materials after harvest, shall occur in or over the water unless specifically approved by permit. All other processing facilities shall be located on land.
18. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
19. Odors shall be controlled through the proper storage and disposal of feed and other organic materials and by maintaining a clean operation. A specific plan for identifying and controlling odors shall be developed and approved as part of the permit approval process. Odors shall not unreasonably interfere with the enjoyment of life and property of a substantial number of persons.

20. Fish net pens and rafts shall only be allowed in the Aquatic areas directly offshore from the Urban environment, subject to the following additional regulations:
- a. Fish net pens shall, at a minimum, meet state approved administrative guidelines for the management of net pen cultures.
 - b. Fish net pens shall occupy no more than 2 surface acres of water area, excluding booming and anchoring requirements. Anchors that minimize disturbance to substrate, such as helical anchors, shall be employed where feasible.
 - c. Only disease control chemicals and drugs approved for use by the USFDA and USEPA may be used. USFDA INADs may also be used provided the conditions detailed in the facility's INAD permit application are met. All disease control drug and chemical use must be done in conformance with product label instructions and approved INAD protocols. Or be administered by or under the supervision of a licensed veterinarian. Amount and frequency of application of disease control chemicals must be the minimum necessary for effective disease treatment and control.
 - d. No overwater cleaning of nets is allowed. The permittee must comply with state NPDES requirements regarding net cleaning. The permittee may not discharge toxic chemicals in toxic amounts to the receiving water. The permittee must not discharge soaps or detergents to the receiving water. There shall be no disposal or discharge of disinfectants or cleaning agents.

6.4 Boating Facilities – South Whidbey Harbor at Langley (Marina)

6.4.1 Policies

1. Expansion of the existing marina shall comply with the Port of South Whidbey Comprehensive Scheme of Harbor Improvements. New or expanded piers require an analysis in compliance with WAC 173-26-231 (3)(b). No new marinas should be developed.
2. Ensure that Marina expansions are located, designed, constructed and operated in a manner that will minimize damage to shoreline processes and functions. When impacts cannot be avoided, impacts must be mitigated to assure no net loss of ecological function necessary to sustain shoreline resources.
3. Marina development should be designed and constructed in a manner that minimizes impacts on fish and wildlife, littoral drift, critical fish habitat and beach resources. Appropriate state and federal guidelines should be used in the design and construction of marinas.
4. Marina design to be compatible with upland properties. Compatibility means reducing the effects of noise, lights and traffic.

5. Marina design and operations should include appropriate means for preventing fuel spills and for clean up in the event that spills occur.
6. Marina design should incorporate methods for collecting sewage and provide vessel pump out facilities.
7. Marina facilities should include public access.
8. Adequate fire protection should be incorporated in marina design.
9. Ensure the marina is located, designed and operated so as to be compatible with adjacent uses and protect the aesthetic qualities of the shoreline environment.
10. Consult the standards and guidelines of applicable federal, state and local agencies in planning for marina expansion and new mooring facilities.
11. Give valid consideration to floating breakwaters as an alternative to conventional breakwaters.
12. Permit water-enjoyment public access uses (i.e., including associated facilities such as public restrooms, benches and signage) as third priority uses within Aquatic Harbor District and the adjacent Urban designation.
13. Support the Port's preferred alternative for the proposed marina expansion. Work with the Port to foster a marina expansion and upland development that achieves the goals of the priority uses for the Aquatic Harbor District and supports the long-term viability of marine trades and marine recreation.
14. Maximize efficient use of areas within the Aquatic Harbor environment for water-dependent and water-related uses before contemplating expansions to the environment. Ensure that any future expansions to the environment are subject to adequate environmental review, and that identified impacts are fully mitigated to achieve "no net loss" of environmental functions and values.
15. Allow uses that adversely impact the ecological functions of critical saltwater and freshwater habitats only where necessary to achieve the objectives of RCW 90.58.020 (Legislative findings—State policy enunciated – Use preference), and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure "no net loss" of ecological functions.
16. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with state and federal requirements consistent with constitutional or statutory limitations on the regulation of private property.
17. Work with the Port to identify opportunities for restoration and encourage conservation in the Aquatic Harbor environment, such as preservation of water quality and enhancement of public access.

18. Marina expansion should be designed and constructed to accommodate for sea level rise to mitigate for the impacts of sea level rise.

6.4.2 Regulations

A. Development Regulations

1. The marina shall be designed to be compatible with upland properties. Compatibility means reducing the effects of noise, lights and traffic.
2. Marina development shall be designed and constructed in a manner that minimizes impacts on fish and wildlife, littoral drift, critical saltwater habitat and beach resources. Appropriate state and federal guidelines should be used in the design and construction of marinas.
3. The marina, docks and piers shall be located, designed and operated in a manner that does not interfere with the rights of adjacent property owners or water users and not be a hazard to navigation.
4. Commercial and industrial docks upon which toxic or flammable materials are handled or stored shall make adequate provisions to prevent spills; control and clean-up spills and provide adequate fire protection.
5. Floating houses, boathouses and covered moorage are prohibited.
6. Marina development is restricted to the Aquatic Harbor Environment and that portion of the Urban Environment lying easterly of Seawall Park.
7. Only water-dependent uses, public access, or ecological restoration shall be permitted on new over-water structures.
8. Marina expansions and new mooring buoy fields may be permitted as a Shoreline Substantial Development Permit. Where permitted, these facilities shall be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with adjacent residential property owners, as well as adjacent shoreline or water uses. To this end, applications for such facilities must demonstrate conformance with the following criteria. The proposal shall:
 - a. Locate with regard to favorable conditions related to wind, current, bathymetrics, and for overnight moorage facilities, adequate flushing action.
 - b. Comply with all federal, state, regional, and local requirements regarding water quality, including, but not limited to, Department of Health Standards and environmental policies and regulations contained in Chapter 6, Environmental Protection.

- c. Be compatible with the general aesthetic quality of the shoreline area where they are located. Provide for adequate upland support facilities (e.g., restrooms, dumpsters, etc.)
 - d. Provide accessory parking and loading areas - said facilities shall be located well away from the water's edge.
 - e. Facilitate orderly launching, retrieval, and storage of boats as well as circulation of vehicles and pedestrians in the vicinity of the marina.
 - f. The marina shall make provisions to minimize the probability of fuel spills during handling or storage.
 - g. Make provisions shall be made to handle accidental spills that do occur.
 - h. Provide pump-out and on-shore sewage and waste disposal facilities.
9. The marina shall provide restrooms for boaters' use. They shall be located within 75 feet of the landward end of the dock or pier, be identified by signs and be accessible to tenants 24 hours a day. Marinas with 10 to 100 slips shall provide one toilet and hand washing facility for each gender. Marinas exceeding 100 slips shall provide an additional toilet and lavatory for each gender.
10. Public access facilities shall be required for the marina, provided the marina may restrict access to specific areas and times for safety and security reasons. The design and any operational restrictions of public access shall require approval of the Shoreline Administrator.
11. Marina expansions shall be designed and constructed to adapt to the level of expected sea-level rise in 2100. Consideration of sea level rise projections identified in the City of Langley Sea Level Rise Assessment (2021) may be used.

B. Regulations – Management and Operations

- 1. The discharge of sewage and/or toxic material from boats and/or shore installations shall be prohibited.
- 2. No commercial fish or shellfish processing discharge or discarding of unused bait, scrapfish, or viscera shall be permitted.
- 3. The marina shall provide adequate sewage and waste disposal pumpout facilities. Such facilities shall be adequate to serve all marina users.
- 4. Should the marina operate a fuel dock the Port shall have adequate facilities and establish posted operational procedures for fuel handling and storage in order to prevent/minimize accidental spillage.

5. The marina shall have facilities, equipment, and established posted procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.
6. Signs shall be posted where they are readily visible to all marina users describing regulations:
 - a. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;
 - b. Prohibiting the use of marine toilets (i.e., no untreated sewage discharge);
 - c. Describing best management practices (BMPs) for boat maintenance and repairs on-site.
7. Refuse or litter receptacles shall be provided and maintained at several locations convenient to users in sufficient numbers to properly store all solid waste generated onsite.
8. Marina docks shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes.
9. Current best management practices to control environmental pollution shall be applied to minor boat repair and maintenance activities and, where applicable, shall be made a condition to shoreline permits.
10. Parking and loading areas shall be located away from the water's edge and beaches where possible. Parking and loading areas shall be designed to manage the quality and quantity of stormwater runoff in accordance with all applicable City and state standards and guidelines.

C. Regulations – Parking and Circulation

1. Parking facilities shall be provided according to the following schedule:
 - a. One vehicle space per two slips for non-transient moorage unless a lower ratio can be demonstrated to supply anticipated demand.
 - b. One additional parking space shall be provided for every 300 square feet of interior floor space devoted to accessory retail sales or services.
2. Parking and outdoor storage areas associated with the marina shall be landscaped in a manner which provides a visual buffer between these uses and the top of the bank.
3. Short-term loading areas may be located at ramps or near berthing areas. Long-term parking areas shall be located offsite and connected by pedestrian ways, funicular trams, or alternative low speed electric vehicles. Short-term parking shall

be separated from the OHWM by a vegetated native vegetation zone of at least 50 feet. Creative methods of providing parking, such as joint use parking or off-site parking should be evaluated in the design of marina facilities. On-site parking facilities should provide facilities for managing the quantity and quality of stormwater run-off.

4. Marina parking may be provided off-site and in joint use or shared facilities provided that the applicant can demonstrate that the hours of use by the respective users will not conflict and there is adequate pedestrian and/or transit connections between off-site parking and the marina.
5. A parking analysis by a qualified professional shall be required for future marina expansion projects

D. Regulations – Utilities

1. The marina shall have accessible boat sewage disposal systems on-site or other pump-out services.
2. The marina shall provide facilities for the adequate collection and dumping of marina-originated materials including, but not limited to, sewage, solid waste, and petroleum waste.
3. Distribution systems for plumbing and wiring at the marina site shall be placed at or below ground and dock levels.
4. Public boat launch facilities shall provide and maintain dump stations and restrooms.

E. Lighting Standards

1. Performance Standards
 - a. Lighting shall be the minimum necessary for safe use and to locate the dock at night from the water
 - b. Lighting shall be focused on the dock surface and shall minimize spillover onto the water surface except when artificial lighting is approved for daytime use to minimize ecological impacts
 - c. Lighting shall be designed to minimize glare and dark sky impacts.
 - d. In addition to these standards, lighting at the marina, on docks, and floats shall comply with all state and federal requirements. Where state or federal requirements conflict with city requirements, the more protective of nearshore habitats and species and shoreline functions shall be applied.

2. Height of Fixtures. Lights shall be not taller than 3' from the surface of the dock or float except the city may approve taller lights based on the following circumstances and standards:
 - a. The lighting is proposed for operational needs, including areas of high use such as major walkways or for commercial activities.
 - b. Lights above 3' shall not be used adjacent to individual moorage slips unless it is determined to be an area of high use and the design minimizes impacts on adjacent overnight moorage guests.
 - c. The design should incorporate, to the extent practical, measures to minimize illumination levels from the taller fixtures during off-peak periods of usage including timers, dimmers or alternative lighting.
 - d. Lights shall be full cut-off fixtures.

F. Design Standards

1. Pilings must be structurally sound prior to placement in the water. The use of treated wood pilings shall comply with the Washington State Department of Fish and Wildlife guidelines.
2. Containment features shall be included when plastics or other non-biodegradable materials are used in float construction.
3. Overhead wiring is not permitted on docks and piers.
4. Dock lighting shall be designed to shine downward and not exceed a height of three feet above dock and pier surfaces, except as authorized under section 6.4.2.e.
5. All construction related debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly.
6. Unsafe docks and piers shall be removed or repaired promptly by the owner.

6.5 Commercial

6.5.1 Policies

1. Commercial uses and development should be designed and constructed in such a manner as to result in no net loss of ecosystem functions.
2. New commercial development in the shoreline area should be limited to areas of existing or planned commercial use consistent with the land use designations of the Langley Comprehensive Plan and implementing zoning districts.

3. Commercial development should be reviewed for consistency with all City development regulations.
4. Commercial development at the foot of Wharf Street and along Sunrise Lane should be considered in the following order of preference; water dependent uses, water related uses, and water enjoyment uses.
5. Commercial development should provide physical or visual access to the shorelines.
6. Commercial developments should not be located over-water unless the use is water dependent, or, in the case of adaptive reuse or reconstruction of an existing structure (s), includes a mix of water dependent and other uses and incorporates significant public access.
7. All necessary facilities and utilities should be available to serve commercial development.
8. Commercial development in areas of steep slopes should only be permitted after geo-technical evaluation that has been deemed acceptable by the city.
9. Parking facilities should be planned so that opportunities exist for shared use of the facilities depending on the hours and operating characteristics of the users.
10. Parking facilities should be located away from the water's edge, include facilities to manage both the quantity and quality of storm water runoff and minimize adverse impacts resulting from light and noise.
11. Encourage the redevelopment of residential properties in the urban environment to commercial uses that provide public access.

6.5.2 Regulations

1. Commercial uses shall achieve no net loss of ecological function.
2. New commercial development shall only be allowed in the Urban environment and in areas of existing or planned commercial development.
3. Commercial developments shall not be located over-water except under the following circumstances:
 - a. A water dependent use;
 - b. An adaptive reuse or reconstruction of an existing structure(s) that includes a water related or water enjoyment supporting a water and incorporates significant public access;

- c. A minor commercial use that is accessory and clearly incidental to an allowed use on a publicly owned dock.
- 4. While priority is to be given to water dependent and water related uses, non-water oriented commercial development in those portions of the central business district within the shoreline jurisdiction is also allowed.
- 5. Commercial development at the foot of Wharf Street and along Sunrise Lane shall be considered in the following order of preference: water dependent, water related and water enjoyment.
- 6. Non-water oriented commercial development at the foot of Wharf Street and along Sunrise Lane shall be prohibited unless they are part of a mixed use development that includes a water-oriented use or incorporates significant public access.
- 7. New commercial development is encouraged to provide a mix of uses.
- 8. All commercial development shall be consistent with the goals, policies and applicable regulations of this Program, the Langley Comprehensive Plan and the city's development regulations.
- 9. Commercial developments shall not interfere with the enjoyment of adjacent recreational or residential uses.
- 10. In geologically hazardous or unstable bluff areas, permit applicants shall be required to provide the City with geotechnical studies and conform to requirements of the City's Resource Lands and Environmentally Sensitive (Critical) Areas Management regulations, Chapter 16.20 LMC.
- 11. Parking and loading areas shall be located landward from the OHWM and landward from the principal building being served, except when the parking facility is within or beneath the structure and is adequately screened.
- 12. Shared use of parking facilities is strongly encouraged for commercial development.
- 13. The design of parking and loading areas shall manage both the quantity and quality of stormwater run-off in accordance with applicable city and state standards and guidelines and not cause soil or beach erosion.
- 14. Outdoor advertising and signs shall comply with sign regulations of the Langley Municipal Code.
- 15. Legal nonconforming commercial development and activities within the shoreline jurisdiction may be maintained and/or expanded subject to the requirements of SMP Section 7.9 and Chapter 18.32 LMC.

16. New commercial development shall provide physical or visual public access to the shorelines consistent with SMP Section 4.4.2.
17. Commercial parking and loading areas shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.

6.6 Water-dependent Industrial

6.6.1 Policies

1. Industrial development should be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions including critical saltwater habitat and such that it does not have significant adverse impacts to other shoreline resources and values.
2. Industrial uses and redevelopment should be encouraged to locate where environmental cleanup and restoration can be accomplished.
3. Industrial development should only be allowed in the Urban/High Intensity and Urban Aquatic Environments.
4. Water-dependent industrial uses which require frontage on navigable water should be given priority over non-water-dependent industrial uses; and second preference should be given to water-related industrial uses over non-water-oriented industrial uses.
5. Industrial and marina development should be visually compatible with adjacent non-commercial properties.
6. Waterfront industrial development should be designed to allow cooperative use of docking, parking, cargo handling, and storage facilities.
7. Transportation facilities intended for waterfront industrial sites and utilities serving waterfront industry should be the minimum necessary to serve the industrial use in order to reduce pressure on waterfront sites.

6.6.2 Regulations

1. Industrial uses are only allowed in the Urban and Aquatic Boat Harbor environments where the proposed activity is a water dependent or water related use. New non-water oriented industrial development is prohibited.
2. Industrial uses shall comply with all City development regulations.
3. Industrial development shall be located, designed, constructed, and operated in a manner that avoids or minimizes effects on shoreline functions and critical saltwater habitat.

4. Industrial developments shall comply with all federal, state and local requirements for air and water quality.
5. Industrial facilities shall be located, designed, constructed, and operated in a manner that minimizes unnecessary interference with the rights of adjacent property owners as well as adjacent shoreline or water uses.
6. Industrial facilities shall not duplicate, but share over-the-water structures such as docks and piers whenever practicable. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential dangers involved.
7. Industrial facilities shall make adequate provisions to prevent the spill of fuels or other toxic substances. Provisions shall be made for cleaning up spills that do occur.
8. Objectionable noise that is due to volume, frequency or beat shall be muffled or otherwise controlled. Emergency warning sirens or alarms and related apparatus used solely for public purposes are exempt.
9. Industrial facilities shall be designed so that no direct or reflected glare is visible from the adjacent properties, streets or water areas.
10. Industrial facilities shall provide public access to shoreline areas when feasible, taking into consideration public safety, public health and security.
11. Industrial facilities shall comply with all other applicable policies and use regulations of this Master Program.

6.7 Recreation

6.7.1 Policies

1. Recreational use and development shall be designed, constructed and operated in a manner which facilitates appropriate use of shoreline resources and does not result in a net loss of shoreline ecological functions, including critical saltwater habitat, and is compatible with the surrounding properties.
2. Increase opportunities for water-oriented recreation in coordination with Island County, State Parks, and City of Langley Public Works Department.
3. Linkages between shoreline parks, recreation areas and public access points with linear systems (e.g., water trails, hiking paths, bicycle paths, easements and/or scenic drives) should be provided where feasible.

4. Recreational uses which are not water-oriented should be required to locate outside the local shoreline. Recreational uses which are not water-dependent should not be allowed over water.
5. Recreation facilities should incorporate adequate orientation information and public education regarding shoreline ecological functions and processes, the effect of human actions on the environment and the importance of public involvement in shoreline management. Opportunities to incorporate educational and interpretive information should be pursued in design and operation of recreation facilities and other amenities such as nature trails.
6. The City should encourage the use of street ends and publicly owned lands for shoreline public access, development of recreational opportunities and scenic view points.
7. Innovative and cooperative techniques among public agencies and private parties in planning recreational opportunities should be encouraged.
8. Provide for the acquisition of shorelands with high value for recreation, before other developments preclude such action.

6.7.2 Regulations

1. Water-oriented recreational development may be allowed when the proponent demonstrates that the use will not result in a net loss of shoreline ecological functions including critical saltwater habitat or processes or have significant adverse impact on other shoreline uses, resources or values such as navigation and public access.
2. Recreation facilities except for boat launches, public access and viewpoints and similar uses shall not be located waterward of the OHWM.
3. Recreation facilities shall be designed to provide adequate water supply, sewage disposal and garbage collection.
4. Screening, buffers, fences, and signs to prevent trespass and to protect adjacent and nearby private or public properties may be required.
5. Tree cutting and driftwood removal in public recreation areas is prohibited.
6. Signs associated with recreation facilities shall be kept to the minimum necessary and comply with the City of Langley sign regulations.
7. Prohibit use of recreational off-road vehicles within the shoreline area, except by public agencies for maintenance, operations and emergency services.
8. When a public recreation site abuts private property or tidelands, signs and other similar markers shall indicate geographic limits of public access to minimize

conflicts with adjacent use and development and to ensure continued public control of the site.

6.8 Residential

6.8.1 Policies

1. Single-family residential development is identified in WAC 173-26-241(3)(j) as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.
2. Residential uses should be designed at a level of density and site coverage consistent with the Langley Comprehensive Plan and City development regulations including the Resource Lands and Environmentally Sensitive (Critical) Areas Management regulations contained in Chapter 16.20 LMC. The following section of Chapter 16.20 LMC is hereby incorporated by reference into the Shoreline Master Plan: Chapter 16.20.060.
3. Residential uses should be designed to adequately protect water quality as well as shorelines within the development and adjacent areas.
4. New residential developments containing five or more dwelling units should provide public access to the shoreline where feasible.
5. Residential development over the water is prohibited.
6. Residential developers should be required to preserve shoreline vegetation in accordance with the policies of this Master Program and other City regulations.
7. Residential development should avoid environmentally sensitive areas as designated in the Langley Municipal Code.
8. Residential development should only be permitted where there are adequate provisions for utilities, circulation and access. Utilities must be provided in accordance with appropriate state and local health regulations. Storm drainage facilities should be separated from sewage disposal systems.
9. Residential development should employ stormwater management measures to minimize bluff erosion. Erosion control measures should utilize best management practices to protect water quality and shoreline resources.
10. Accessory and appurtenant structures should be designed to avoid geologically hazardous areas, comply with applicable setback requirements and be permitted only where compatible with the natural environment of the shoreline.
11. Residential developments should be designed and located to avoid the future need for bulkheads or other types of shore defense works.

6.8.2 Regulations

1. All residential development shall be consistent with the goals, policies and regulations of this Master Program, the Langley Comprehensive Plan and City development regulations including the Resource Lands and Environmentally Sensitive (Critical) Area Management regulations contained in Chapter 16.20 LMC and adopted by this Program in SMP Section 4.3.
2. Residential development is prohibited seaward of the ordinary high water mark (OHWM). Live-aboard vessels and houseboats are restricted to the marina. Floating homes are prohibited.
3. Public access to publicly owned shorelines shall be maintained. Direct public access or visual access shall be required for all subdivisions or multi-family residences with five or more dwelling units.
4. Residential development shall be required to provide a detailed drainage plan as part of any permit application. The drainage plan may include tight line systems, the use of native vegetation or other measures that are not likely to exacerbate bluff erosion. Run-off from residential development shall be directed away from the shoreline. Where run-off must be directed toward the shoreline, stormwater facilities shall be designed to prevent water pollution and erosion. Stormwater management facilities and practices shall comply with applicable City and state regulations and guidelines. Residential development containing wetlands shall use those areas consistent with the City's Environmentally Critical Areas Regulations, Chapter 16.20 LMC.
5. Construction of residential structures, appurtenances, accessory structures and amenities shall not be detrimental to geohydraulic processes within the shoreline corridor.
6. Residential structures shall be located in geologically hazardous areas only if a geotechnical evaluation has been prepared and has been deemed acceptable by the Shoreline Administrator and if the residential structures are in compliance with the bluff setback standards and conditions contained in the City's Resource Lands and Environmentally Sensitive (Critical) Areas Management regulations, Chapter 16.20 LMC.
7. Accessory structures shall be constructed to minimize adverse impacts to the environment and shall comply with all required setbacks.
8. All structures shall be located and designed to avoid the future need for structural shoreline stabilization over the life of the structure.
9. All new lots or lots resulting from subdivision of land shall:
 - a. Prevent the loss of ecological functions at full build-out;

- b. Prevent the need for new shoreline stabilization or flood hazard reduction measures; and
- c. Be consistent with all applicable SMP environment designations and standards.

10. Residential development shall be served with adequate services and facilities.

11. Septic drain fields that are proposed for lots on feeder bluffs or within 100 feet of any geologically hazardous areas shall be designed and located to discharge leachate as far as possible away from the bluff face or the geologically hazardous area unless an alternative location is approved in a geotechnical report.

12. There shall be no removal of any vegetation from any steep slope area or buffer except for limited plant removal necessary for surveying purposes or for removal of hazardous trees determined to be unsafe by the City. The view protection regulations in SMP Section 4.9.2 are also applicable.

13. Stairways and tramways are subject to the following design criteria:

- a. Be located and designed in a manner that does not require subsequent shoreline modification, including the installation of bulkheads solely for the purpose of protecting new appurtenances.
- b. Be designed and located to avoid unstable slopes, eroding bluffs and other geological hazardous areas.
- c. Be designed and located in a manner that minimizes removal of existing vegetation.
- d. Be designed in a manner that minimizes impacts on the shoreline and does not interfere with normal littoral drift and the movement of sediments to and along the shore.
- e. Be located as far landward of the OHWM as practical.
- f. Stairway and tramway landings shall be limited in size to that necessary for safe access to the beach and shall not constitute a deck.
- g. The possibility of joint use has been investigated and does not exist.
- h. Joint use stairways may be required in areas of existing residential development located on unstable slopes, marine feeder bluffs or other geologically hazardous areas.

6.9 Roads and Transportation

6.9.1 Policies

1. Roads should be located outside the shoreline jurisdiction to the maximum extent possible.
2. New transportation facilities or roadways, including expansions of these systems, should be designed and located to assure no net loss of shoreline ecological functions.
3. Minimize impacts to the topography and other natural characteristics of the shoreline by appropriately locating transportation routes.
4. Road construction in the shoreline area should be the minimum necessary to serve shoreline uses and be designed to protect shoreline and water resources. New wetland crossings by roads or trails should be avoided.
5. Road construction should only be allowed for local access traffic or to connect to and serve existing transportation facilities.
6. New roads should be designed and located to fit the existing topography so alterations of natural conditions will be minimized.
7. New transportation facilities should be designed and located to avoid or minimize the need for structural shoreline protection measures.
8. Transportation facilities should include provisions for non-motorized transportation.

6.9.2 Regulations

1. Roads shall be located away from the shoreline except when no reasonable alternative location exists. When roadways are permitted, development of scenic areas and bikeways may be required.
2. Roads shall be designed to be the minimum necessary to serve shoreline uses.
3. Roads shall be designed to control surface water runoff and comply with all City and state water quality standards and guidelines.
4. Road design shall comply with the engineering and development standards of the City of Langley. Road and driveway alignments shall be designed to fit the topography of the shoreline so that alternations to the natural site conditions are minimized.
5. Roads shall be setback a safe distance from the top of unstable marine bluffs and other geologically hazardous areas in accordance with the requirements of the

City's Resource Lands and Environmentally Sensitive (Critical) Areas Management regulations of LMC 16.20.

6. Roads and waterway crossings shall be prohibited within wetlands or critical fish and wildlife conservation areas except when all upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program: When permitted, these facilities shall be:
 - a. The minimum width to accommodate the anticipated use;
 - b. Designed so the integrity of the naturally occurring geohydraulic process is maintained;
 - c. Designed to provide minimal disturbance to stream banks.
 - d. Culverts, bridges and similar devices shall be designed to pass water, sediment, and debris loads anticipated under appropriate hydraulic analysis.
 - e. All roads and drainage systems shall be maintained to prevent erosion and/or water quality degradation.
 - f. Mechanical apparatus, rather than chemicals, shall be used for brush clearing maintenance wherever practicable.
 - g. Road routes shall make provisions for pedestrian, bicycle, and other non-motorized modes of travel whenever feasible.
 - h. In compliance with RCW 36.87.130 and RCW 35.79.030, the City of Langley shall not vacate a road or part thereof that abuts on a body of salt water, unless the purpose of the vacation is to enable any public authority to acquire the vacated property for marina purposes, boat moorage or launching sites, or for park, view point, recreational, educational, or other public purposes. Further, such vacation shall not be accomplished for any purpose that is not consistent with this Program, and then only when all appropriate federal, state, and local permits have been issued for the intended use.
7. Parking as a primary, not associated with an allowed, shoreline use, use shall be prohibited within shoreline jurisdiction.
8. Parking (other than parking associated with a public beach access point) shall only be permitted in shoreline jurisdiction when necessary to support an authorized use where it can be demonstrated that there are no feasible alternative locations away from the shoreline. Parking facilities shall be buffered from the water's edge and less intense adjacent land uses by vegetation, undeveloped space, or structures developed for the authorized primary use to the maximum practicable extent.

9. Parking areas shall be developed using low impact development techniques whenever possible including but not limited to the use of permeable surfacing materials.

6.10 Utilities

6.10.1 Policies

1. The design and location of utility facilities should provide for no net loss of shoreline ecological functions.
2. Utilities that must be located in shoreline areas should be installed to minimize shoreline disturbance.
3. Utilities should not obstruct or destroy shoreline views.
4. Affected areas should be restored upon the completion of utility installation or maintenance.
5. The presence of utilities should not be used justify more intense development beyond that allowed by this Program and the underlying zoning.
6. Ensure that new projects for and major maintenance of replacement of utilities and other public infrastructure consider the impacts of sea-level rise in the location, design and operation of the projects.

6.10.2 Regulation

1. Utility facilities shall be located outside of shoreline jurisdiction unless no other feasible option exists. When located within shoreline jurisdiction, utility facilities shall result in no net loss of shoreline ecological functions
2. Utilities shall be installed underground whenever feasible.
3. Utilities are required to be located in existing rights-of-ways whenever possible.
4. When feasible, utility corridors shall serve multiple uses such as shoreline access or recreational trails or pathways.
5. Utilities installed on beaches or upon tidal areas shall be installed in such a manner as to assure that water quality and marine life will not suffer degradation.
6. Upon completion of installation projects, or maintenance projects, banks shall be restored to a suitable configuration and stability, and shall be replanted with native species and provided with maintenance care until the newly planted vegetation is established.

7. Utility discharges and outfalls shall be located, designed, constructed, and operated so that degradation of water quality, marine life and general shoreline ecosystems is kept to an absolute minimum.
8. Utilities located in flood prone areas shall be provided adequate flood protection and shall not be installed so as to increase flood hazard or other damage to life or property.
9. Utilities shall not be installed in areas subject to geological hazards unless it can clearly be demonstrated that such hazards can be overcome.
10. Fuel pipelines and operations shall conform to the following requirements:
 - a. The design, construction, operation, and maintenance of pipelines carrying hazardous materials and petroleum products in liquid form shall conform to all regulations established by the United States Department of Transportation;
 - b. In order to prevent spills and other forms of pollution, owners and operators of facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, and/or consuming oil and gas shall conform to established procedures, methods and equipment, set forth by statutory and other requirements of the United States Environmental Protection Agency and the Washington State Department of Ecology;
 - c. No pipelines carrying hazardous materials or petroleum shall be constructed on the shorelines of Langley without issuance of a Substantial Development Permit and Conditional Use Permit;
 - d. No offshore drilling, processing or refining of petroleum shall be done within 2,000 feet of the shorelines of the City of Langley.
 - e. Development of underwater pipelines and cables on tidelands is not permitted except where adverse environmental impacts can be shown to be less than the impact of upland alternatives. When permitted, those facilities shall include adequate provisions to ensure against substantial or irrevocable damage to the environment.
 - f. That sufficient evidence is provided assuring the prevention of leaks or explosions.
11. The presence of utilities shall not be used justify more intense development beyond that allowed by this Program and the underlying zoning.
12. Upgrades and replacement of utilities and other public infrastructure shall be located outside of areas that may be impacted by the expected sea-level rise in 2100. If infeasible, such development shall be designed and constructed to adapt to the level of expected sea-level rise feet in 2100. Consideration of sea level rise

projections identified in the City of Langley Sea Level Rise Assessment (2021) may be used.

CHAPTER 7. ADMINISTRATIVE PROVISIONS

7.1 General Compliance

1. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the LMC and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
2. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program whether or not a permit is required.
3. The City shall not issue any permit for development within shoreline jurisdiction until approval has been granted pursuant to this adopted Program.
4. A development or use that does not comply with the bulk, dimensional and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.
5. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.
6. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or City laws or regulations.
7. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Land Use Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.
8. The City shall not issue a permit for any new or expanded building or structure that exceeds a height of thirty-five (35) feet above average grade level that will obstruct the view of a substantial number of residences except with a shoreline variance, provided an applicant can demonstrate through a view impact study that overriding considerations of the public interest will be served.
9. The City will track all shoreline permits and exemption activities to evaluate whether the Master Program is achieving no net loss. A no net loss report shall be prepared every eight (8) years as part of the City's Shoreline Master Program evaluation or Comprehensive Plan Amendment process.

7.2 Applicability

1. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program. The policies and regulations of this Program apply to all shoreline uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required. The City of Langley has the authority and responsibility to condition a project even if it is exempt from the requirement for a substantial development permit. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
2. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this Program.
3. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
4. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.
5. The policies and provisions of Chapter 90.58 RCW and this Shoreline Master Program shall be applied to federal lands and agencies as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.) and Washington Administrative Code (WAC) 173-27-060(1) and (3).
6. Requirements to obtain a Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the developments identified in WAC 173-27-044 and WAC 173-27-045. These developments include: remedial actions; boatyard improvements to meet NPDES permit requirements; WSDOT facility maintenance and safety improvements; projects consistent with an environmental excellence program agreement; and projects authorized through the Energy Facility Site Evaluation Council process.

7.3 Administrative Authority and Responsibility

1. The Planning Official of the City of Langley is designated as the Shoreline Administrator and shall be responsible for the administration, interpretation and enforcement of the provisions of this Master Program as designated.
2. The Shoreline Use Administrator shall have the authority to act upon the following matters:

- a. Interpretation, enforcement, and administration of the City's Shoreline Master Program as prescribed in this title;
 - b. Applications for Shoreline Management Substantial Development Permits as prescribed in this title;
 - c. Modifications or revisions to any of the above approvals.
 - d. Shoreline Administrative Conditional Use Permits, which are those uses identified as conditional uses by this shoreline master program and one of the following conditions is met:
 - i. The use will occur entirely within an existing building and involves no changes to the exterior.
 - ii. The use will be associated with development activities that require a Letter of Exemption.
 - iii. The use does not involve any development activities but is classified as a Conditional Use by this Master Program.
3. The Langley Hearing Examiner is responsible for reviewing the following permits at an open record public hearing:
- a. Shoreline Conditional Use Permits;
 - b. Permits involving new or expanded over-water developments and uses; and
 - c. Shoreline variance requests.

7.4 Administration

1. This Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.
2. Shoreline substantial development permits and shoreline conditional use permits shall be subject to all of the applicable requirements of LMC 18.36.
3. Shoreline variances shall be processed in the same manner as variance from the City's zoning code and shall be subject to all applicable provisions of LMC 18.30 and 18.36.
4. Appeals of the final decision of the City with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.
5. Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may

be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180.

6. The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

7.5 Enforcement, Violations and Penalties

1. The Shoreline Administrator is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated there under pursuant to the enforcement and penalty provisions of WAC 173-27-270, 280, and 290.
2. This Program will be enforced by the means and procedures set forth in LMC 18.42.

7.6 Shoreline Permits and Exemptions

7.6.1 Shoreline Substantial Development Permit Required

1. Substantial development, as defined by this program and RCW 90.58.030, shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator. A shoreline substantial development permit shall be required for all proposed use and development of shorelines unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.
2. The Shoreline Administrator is authorized to grant a shoreline substantial development permit when all of the criteria enumerated in WAC 173-27-150 are met.
3. All new or expanded over-water developments and uses, including those allowed as a substantial development, shall require a public hearing and be reviewed and approved by the Langley Hearing Examiner consistent with LMC 18.36.040.
4. Within an urban growth area a shoreline substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the OHWM.

7.6.2 Exemptions from a Substantial Development Permit

1. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e) or WAC 173-27-040(2) (List of Exemptions), shall not require a substantial development permit but shall conform to the policies and regulations of this Program. Shoreline Conditional Use, Shoreline Variance, or other permits may also still be required even though the activity does not require a Substantial Development Permit.

2. If any part of a proposed development is not eligible for exemption as defined in RCW 90.58.030(3)(e) or WAC 173-27-040(2), then a substantial development permit is required for the entire proposed development project.
3. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.
4. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.
5. All exempt actions are subject to review for consistency with the goals, policies and regulations of the Shoreline Management Act, this Program and other applicable City regulations. Development shall not commence until the Shoreline Administrator issues a written letter of exemption and shall be carried out in compliance with any conditions accompanying the exemption letter.
6. Whenever an exempt development is subject to the U.S. Army Corps of Engineers Section 10 Permit or a Section 404 Permit, the Shoreline Administrator shall prepare a letter addressed to the applicant and the Washington State Department of Ecology, exempting the development from the substantial development permit requirements of the Shoreline Management Act.

7.6.3 Exemptions Listed

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as required in Section 7.6.2:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed seven thousand forty-seven dollars (\$7,047.00), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;
2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual

acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the state department of fish and wildlife.
4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the City Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
5. Construction or modification of navigational aids such as channel markers and anchor buoys;

6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the City and state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. In Langley, additional appurtenances include drainage tightlines. Construction authorized under this exemption shall be located landward of the ordinary high water mark;
7. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if, in salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars. For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia and Puget Sound and all bays and inlets associated with any of the above.
8. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;
9. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
10. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
11. Any project with a certification from the governor pursuant to chapter 80.50 RCW (certification from EFSEC);
12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

- a. The activity does not interfere with the normal public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to pre-existing conditions; and
 - e. The activity is not subject to the permit requirements of RCW 90.58.550 (Oil & Natural Gas Exploration in Marine Waters);
13. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;
14. Watershed restoration projects as defined in Chapter 8. The City shall review the projects for consistency with this Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
15. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
- a. The project has been approved in writing by the department of fish and wildlife;
 - b. The project has received hydraulic project approval by the state department of fish and wildlife pursuant to chapter 77.55 RCW; and
 - c. The City has determined that the project is substantially consistent with the shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project proponent.
 - d. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs when the provisions of WAC 173-27-040(2)(p).

16. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

7.6.4 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020 and this program.
2. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
3. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in this Program precludes, or significantly interferes with, reasonable use of the property;
 - b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the City's Comprehensive Plan and this Program and will not cause adverse impacts to the shoreline environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the public interest will suffer no substantial detrimental effect.
4. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
 - b. That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of this section; and
 - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
5. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
6. Variances from the use regulations of the Master Program are prohibited. Uses which are specifically prohibited by the Master Program cannot be authorized by a variance.

7.6.5 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner which will be consistent with the policies of RCW 90.58, particularly where denial of the application would thwart the policies of the Shoreline Management Act.
2. When a conditional use is requested, the Shoreline Administrator or Hearing Examiner as designated shall be the final approval authority for the City. However, shoreline conditional uses must have approval from the state. The Department of Ecology shall be the final approval authority under the authority of WAC 173-27-200.
3. Conditional use permits shall be authorized only when they are consistent with all of the following criteria:
 - a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this Program;
 - b. The use will not interfere with normal public use of public shorelines;
 - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Program;
 - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is located;

- e. The public interest will suffer no substantial detrimental effect;
- 4. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- 5. Other uses not specifically set forth in the Shoreline Master Program may be authorized through a conditional use permit if the applicant can demonstrate that other uses are consistent with the purpose of the shoreline environmental designation and compatible with existing shoreline improvements or that extraordinary circumstances preclude reasonable use of the property; however, uses specifically prohibited by this Program shall not be authorized.
- 6. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.
- 7. Uses which are specifically prohibited by the Master Program may not be authorized pursuant to either subsection (3) or (4) of this section.

7.6.6 Permit Revisions

- 1. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. A permit revision shall be consistent with provisions of WAC 173-27-100. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program and the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision.

7.7 Ecology Review

- 1. Ecology shall be notified of any Shoreline Substantial Development, Conditional Use, Variance or rescission or revision permit decisions made by the Shoreline Administrator, whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with the Department of Ecology and the Office of the Attorney General using return receipt requested mail:
 - a. A copy of the complete application per WAC 173-27-180;
 - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Master

Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);

- c. The final decision of the City;
 - d. The permit data sheet per WAC 173-27-190;
 - e. Affidavit of public notice; and
 - f. Where applicable, the Shoreline Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).
2. After City approval of a conditional use or variance permit, the city shall submit the permit to the State Department of Ecology for the department's approval, approval with conditions, or denial. The department shall render and transmit to the City and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by the City pursuant to WAC 173-27-110.
 3. The department shall review the complete file submitted by the City on conditional use and variance permits and any other information submitted or available that is relevant to the application. The department shall base its determination to approve, approve with conditions or deny a conditional use permit or variance on consistency with the policy and provisions of the act and, except as provided in WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.
 4. The City shall provide timely notification of the department's final decision to those interested persons having requested notification from the City pursuant to WAC 173-27-130.
 5. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.
 6. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is submitted to them.
 7. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA and the criteria listed in this Program.
 8. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:

- a. For projects that only require a Substantial Development Permit: the date that Ecology receives the City decision.
- b. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and City.
- c. For Shoreline Development Permits simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

7.8 Minimum Permit Application Submittal Requirements

1. Pursuant to WAC 173-27-180, all applications for a shoreline substantial development permit, conditional use, or variance shall provide, at a minimum, the following information: The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
2. The name, address and phone number of the applicant's representative if other than the applicant.
3. The name, address and phone number of the property owner, if other than the applicant.
4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.
5. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the act over the project is derived.
6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
7. A general description of the property as it now exists including its physical characteristics and improvements and structures.
8. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
9. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

- a. The boundary of the parcel(s) of land upon which the development is proposed.
- b. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.
- c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
- d. A delineation of all wetland areas that will be altered or used as a part of the development.
- e. A general indication of the character of vegetation found on the site.
- f. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
- g. Where applicable, a landscaping plan for the project.
- h. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
- i. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
- j. Quantity, composition and destination of any excavated or dredged material.
- k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
- l. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

- m. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.
- 10. The Land Use Administrator may accept a JARPA in lieu of these submittal requirements where applicable.
- 11. The Land Use Administrator may waive permit submittal requirements on a case by case basis and may request additional information as necessary.

7.9 Non-conforming Uses, Structures and Lots

A. Existing Uses and Developments

- 1. Existing uses, structures and lots legally established prior to the effective date of this program are allowed to continue. Where lawful uses, structures and lots exist that could not be established under the terms of this Program, such uses, structures and lots are deemed nonconforming and are subject to the provisions of this section, unless specific exemptions are provided in SMP Section 7.6.3.
- 2. A use which is listed as a conditional use but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
- 3. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

B. Nonconforming Uses

- 1. Additional expansion of nonconforming use or development of any property on which a nonconforming use exists shall require that all new uses conform to this Program and the Act and shall require a Conditional Use Permit.
- 2. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that the use does not change or intensify.
- 3. If a nonconforming use is converted to a conforming use, the nonconforming use may not be resumed.
- 4. When the operation of a nonconforming use is vacated or abandoned for a period of twelve (12) consecutive months, the nonconforming use rights shall be deemed extinguished and the future use of such property shall be in accordance with the permitted and conditional use regulations of this Program.

5. If a conforming building housing a nonconforming use is damaged by fire, flood, explosion, or other natural disaster, such use may be resumed at the time the building is repaired; provided, such restoration shall be undertaken within six (6) months following said damage. Upon a showing of hardship or conditions causing delay, which are beyond the control of the applicant, the mayor may grant an extension of time for up to six additional months.
6. Normal maintenance and repair of a structure housing a nonconforming use may be permitted provided all work is consistent with the provisions of this Program.

C. Nonconforming Structures

1. A nonconforming building or structure may be maintained, repaired, altered or enlarged provided:
 - a. Improvements do not extend or expand the nonconformity of such building or structure by further encroaching upon or extending into areas where construction would not be allowed for new a new building or structure, unless a shoreline variance permit is obtained;
 - b. Improvements are consistent with the provisions of this Program; or
 - c. Alterations are necessary to meet city, state, or federal requirements.
2. If a nonconforming structure is intentionally modified and the cost of the proposed development exceeds fifty (50) percent of the fair market value of the replacement cost of the original structure, it shall be required to meet all applicable standards in this SMP and requires a variance permit.
3. A nonconforming structure may be restored, if damaged by fire, flood, explosion or similar natural hazard, in the same location and dimensions as existed before the damage occurred if restoration begins within six months of the date the damage occurred. Upon a showing of hardship or conditions causing delay, which are beyond the control of the applicant, the mayor may grant an extension of time for up to six additional months.
4. Nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined upon approval of a conditional use permit.

D. Nonconforming Lots

1. Legally established, nonconforming, undeveloped lots located landward of the ordinary high water mark are buildable, provided that all new structures or additions to structures on any nonconforming lot must meet all setback, height and other construction requirements of the Program and the Act.

CHAPTER 8. DEFINITIONS

This chapter sets forth definitions for this SMP. The Langley Municipal Code sets forth definitions that may also apply. In the event of a conflict between the definitions provided in this chapter and those provided elsewhere in the Langley Municipal Code, the definitions provided in this chapter shall apply.

8.1.1 Definitions

1. **Abandon.** Abandon means to terminate the use of a structure by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through non-action.
2. **Accretion Shoreform.** Accretion Shoreform is a shoreline with a backshore that has been produced by the long-term deposition of sand or gravel by littoral drift from a feeder bluff or other source. Such shoreforms include barrier beaches, points, spits, hooks, and tombolos.
3. **Accessory structure.** Accessory structure means any detached structure that is incidental and subordinate to a primary use and located on the same lot as the primary use. Garages, boathouses, barns, storage sheds, gazebos, docks, piers, floats, buoys, and other appurtenances are examples of structures that are typically accessory to a different primary use.
4. **Accessory use.** Use of land or of a building or portion thereof incidental and subordinate to the principal use or building and located on the same lot with the principal use.
5. **Administrator. Shoreline.** The City of Langley Planning Official is designated as the Shoreline Administrator.
6. **Agricultural Activities.** Agricultural activities means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;
7. **Alteration.** Any human activity that results or is likely to result in an impact upon the existing condition of a shoreline is an alteration. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except stormwater, grazing domestic animals, paving, constructing, applying gravel,

modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existent vegetation, hydrology, fish or wildlife, or fish or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities.

8. Applicant. An Applicant is any person who files a permit application with the City of Langley and who is either the owner, beneficial owner, contract purchaser, or authorized agent of such owner of the land on which the proposed activity would be located.
9. Appurtenance. Appurtenance means a structure or development which is necessarily connected to the use and enjoyment of a single-family residence. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed 250 cubic yards (WAC 173-27-040 (2)(g) or its successor). In Langley, additional appurtenances include drainage tightlines. Appurtenances must be landward of the ordinary high water mark (OHWM) and the perimeter of a wetland.
10. Aquaculture. The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.
11. Associated Wetlands. Associated Wetlands means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.
12. Backfill. Backfill means the placement of earth or rocks or other introduced material behind a retaining wall or structure.
13. Bank. Bank means a steep rise or slope at the edge of a body of water or water course.
14. Beach nourishment/Restoration. A process of restoring a beach to a state more closely resembling a natural beach using beach feeding, vegetation, drift sills, and other non-intrusive means.
15. Beach Feeding. A process of replenishing a beach by delivery of materials dredged or excavated elsewhere.
16. Boating Facilities. Boating facilities include marinas, covered moorage, boathouses, boat launches, marine railways, mooring buoys, docks, piers and floats. Boating facilities do not include docks that serve four or fewer single family residences.
17. Boat Launch. A Boat launch is an area developed for boating ingress and egress from the water.

18. Breakwater. Protective structures that are normally built offshore to protect beaches, bluffs, dunes, or marina areas from wave action.
19. Bulkhead. A Bulkhead is a solid or open pile wall of rock, concrete, steel or timber or other materials or a combination of these materials erected generally parallel to and near the OHWM for the purpose of protecting structures from waves or currents.
20. City. The City of Langley.
21. Clearing. An activity associated with property modification or maintenance. Clearing means the destruction or removal of vegetative ground cover and/or trees including, but not limited to, root material removal and/or topsoil material.
22. Commercial use. Commercial use means structures or sites whose primary function is to support the exchange of money for goods or services. Excluded from this definition are home occupations, industrial development and utilities.
23. Community or Joint-use Dock. A structure or structures that are intended for the common use of the residents of adjoining parcels or subdivision, short subdivision or community located on adjacent uplands. A community dock is not for the purpose of serving the public.
24. Comprehensive Plan. The City of Langley Comprehensive Plan and all of its goals, objectives, policies, documents, and maps.
25. Conditional Use, Shoreline. Conditional use or a Conditional Use Permit (CUP) is intended to allow for flexibility and the exercise of judgment in the application of regulations in a manner consistent with the policies of the Shoreline Management Act (SMA) and this Master Program. While not prohibited, these uses are an exception to the general rule.
26. Critical Areas. Critical areas are those areas with especially fragile biophysical characteristics and/or with significant environmental resources. These areas include, but are not limited to: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.
27. Critical Saltwater Habitat. Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.
28. Development. Development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any

stage of water level. Development does not include dismantling or removing structures if there is no other associated development or re-development.

29. Dock. Dock means a structure that abuts the shoreline and is used as a landing or moorage place for commercial and pleasure craft. A dock typically consists of a pier, ramp, and float.
30. Dredge Spoils. The material removed by dredging.
31. Dredging. Dredging means the excavation or displacement of the bottom or shoreline of a water body below the ordinary high water mark (OHWM). Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for shellfish harvesting or for cleanup of polluted sediments.
32. Drift cell. Drift cell means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.
33. Ecological functions or shoreline functions. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201(2)(c).
34. Ecosystem-wide Processes. Ecosystem-wide processes means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
35. Excavation. Excavation means the mechanical removal of earth material from areas above the ordinary high water mark.
36. Exempt. Exempt development means a use or development activity that is not required to obtain a substantial development permit under RCW 90.58.030(3)(e) and WAC 173-27-040, but which must otherwise comply with applicable provisions of the Act and this Master Program and which must obtain an exemption permit from the Planning Director/ Manager per IMC 18.10.950. Conditional Use, Variance, or other permits may also still be required even though the activity does not require a Substantial Development Permit.
37. Extreme Low Tide. The lowest line on the land reached by a receding tide. For the purposes of the Shoreline Master Program, it is the contour 4.5 feet below Mean Lower Low Water (datum plane 0.0).
38. Fair Market Value. Fair market value of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This

would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

39. Feasible. Feasible means, for the purpose of this program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:
- a. The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results;
 - b. The action provides a reasonable likelihood of achieving its intended purpose; and
 - c. The action does not physically preclude achieving the project's primary intended use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. This evaluation shall give special consideration and precedence to protecting properly functioning condition for proposed, threatened, or endangered species.
40. Feeder Bluff. Erosional Bluff Any bluff (or cliff) experiencing periodic erosion from waves, sliding, or slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. These natural resources of beach material are limited and vital for the long-term stability of driftways and accretion shoreforms.
41. Fill. Fill means the addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the ground elevation or creates dry land.
42. Float. Float means a structure comprised of a number of logs, boards, barrels, etc., fastened together into a platform capable of floating on water, used as a landing or moorage structure for swimming purposes. Floats are either attached to a pier or are anchored to the bed lands so as to allow free movement up or down with the rising or falling water levels.
43. Floating Dock. A dock designed to float on the water surface, secured to the shore by means other than a fixed, elevated pier structure.
44. Flood plain is synonymous with one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

45. Flood hazard reduction measures. Actions taken to reduce flood damage or hazard. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.
46. Floodway. The area that has been established in effective Federal Emergency Management Agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.
47. Foreshore. Foreshore means, in general terms, the beach between mean higher high water and mean lower low water.
48. Forest Practices. Forest practice means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber, including but not limited to: road and trail construction and maintenance; harvest, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.
49. Geotechnical Report or Geotechnical Analysis. Geotechnical report or geotechnical analysis means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes.
50. Grading. The movement or redistribution of the soil, sand, rock, gravel, sediment or other material on a site in a manner that alters the natural contour of the land.
51. Groin. A barrier type structures extending from the backshore seaward across the beach.
52. Guidelines. Guidelines means those guidelines adopted pursuant to the Shorelines Management Act of 1971.
53. Habitat. Habitat means the place or type of site where a plant or animal naturally or normally lives and grows.

- 54. Hard Structural Stabilization. Hard structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads or rock walls.
- 55. Hearings Board. Hearings Board means the shorelines hearings board established by the Shoreline Management Act of 1971.
- 56. Height. Height is the distance measured from the average grade level to the highest point of a structure. Provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the Master Program provides otherwise).
- 57. Impervious Surface. Impervious Surface means a surface which greatly reduces or stops the transmission of water, including, but not limited to, asphalt and cement paving, paving blocks, compacted soils and gravel for parking areas, rooftops, or any man-made material that impedes the flow of water and is permanently fixed to the ground. Lattice work paving systems which have a portion of their area open to the subgrade shall not be considered impervious as to the portion which is open.
- 58. Jetty. Jetty means a structure(s) usually projecting out into the sea at the mouth of a river for the purpose of protecting a navigation channel, the marina or to influence water currents.
- 59. Landfill. The addition of soil, sand, rock, gravel, sediments, earth-retaining structure, or other material to an area landward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
- 60. LMC. The Langley Municipal Code.
- 61. Letter of Exemption. A letter of exemption means a letter or other official certificate issued by the City to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable Master Program.
- 62. Littoral. Littoral means living on, or occurring on, the shore.
- 63. Littoral Drift. The natural movement of sediment, particularly sand and gravel along marine or lake shorelines as a result of wave and wind action.
- 64. Lot. Lot means any tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot.

65. Maintenance and Repair, Normal. "Normal maintenance" includes those acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction, See WAC 173-27-040(2)(b).
66. Marina. A facility that provides moorage or storage, supplies, and services for pleasure craft and some types of commercial craft. Boat launching facilities may also be provided at a marina. In this SMP it is the South Whidbey Harbor at Langley, owned by the Port of South Whidbey.
67. Marine. Marine means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.
68. Master Program. The City of Langley Shoreline Master Program.
69. May. May means the action is acceptable, provided it conforms to the provisions of WAC 173-26 and this Program.
70. Mitigation. Mitigation means:
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. Minimizing impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
 - c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; or
 - f. Monitoring the impact and taking appropriate corrective measures.
71. Moorage Buoy. Mooring Buoy means a floating object anchored to the bottom of a water body to which vessels may be tied.
72. Multifamily Residential Development. Multifamily residential development is a building or portion thereof designed for or used as the residence of four or more families living independently of each other.

73. Native shoreline vegetation. Native shoreline vegetation means vegetation comprised of plant species, other than noxious weeds, which are indigenous to Pacific Northwest lowlands and that reasonably could have been expected to naturally occur on the site.
74. No Net Loss. No Net Loss means a standard intended to ensure that shoreline development or uses, whether permitted or exempt, are located and designed to avoid loss or degradation of shoreline ecological functions. The standard is met when proposed uses or developments are in compliance with the provisions of this Master Program. In cases where unavoidable loss results from allowed uses or developments, the standard is met through appropriate mitigation, consistent with the provisions of this Master Program.
75. Nonconforming development or nonconforming structure. An existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the Master Program.
76. Nonconforming lot. A lot that met dimensional requirements of the applicable Master Program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the Master Program.
77. Nonconforming use. An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable Master Program, but which does not conform to present use regulations due to subsequent changes to the Master Program.
78. Non-Structural Shoreline Stabilization. Shoreline erosion control and restoration practices using only plantings or organic materials to restore, protect, or enhance the natural shoreline environment. Nonstructural methods also include building setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization.
79. Non-water Oriented Use. Non-water oriented use means any use that does not meet the definition of a water-dependent, water-related, or water-enjoyment use.
80. Normal Protective Bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.
81. Ordinary High Water Mark (OHWM). OHWM means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change hereafter in accordance with permits issued by the City or the Department of Ecology. Provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining

salt water shall be the line of mean higher high tide. On a site-specific basis, the Department of Ecology has the final authority on determining where the ordinary high water mark is located.

82. Outfall. Outfall means the outlet or place of discharge of a stormwater collection or sanitary sewer system.
83. Permit. Permit means a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance issued in compliance with the Shoreline Management Act of 1971 and this Program.
84. Pier. Pier means a structure that abuts the shoreline and is generally used as a landing or moorage place for commercial and pleasure craft. A pier is a fixed platform above the water.
85. Preferred Shoreline Use. Preferred Shoreline Use is identified in the Act as a use that is unique to or dependent upon a shoreline location. Water-dependent, water-related, and water-enjoyment uses are preferred shoreline uses. Single-family residential development is also preferred use according to the Act.
86. Prohibited. Prohibited means some developments and uses are viewed as inconsistent with the definition, policies or intent of the shoreline environment designation. For the purposes of this program, these uses are not considered appropriate and are not allowed, including by Conditional Use or Variance.
87. Provisions. Provisions means policies, regulations, standards, guidelines, criteria, or environment designations.
88. Public Access. Public access means the public's ability to view, get to and/or use the State's public waters, the water/land interface and associated public shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing towers and other public sites or facilities.
89. Primary Structure. Primary structure means the structure associated with the principal use of the property. If more than one structure is associated with the principal use of the property, the one with the highest assessed value shall be considered the primary structure.
90. Recreation/Recreational Facilities. Public and commercial facilities such as parks, scenic viewpoints, trails, and pathways that provide a means for relaxation or play.
91. Replacement shoreline stabilization structure means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

92. Residential Development. Construction or alteration of one or more buildings, structures, or portions thereof which are designed for and used to provide a place of abode for human beings. This includes single-family residences and multi-family dwellings, accessory uses, and structures normally associated with residential uses and structures. Residential development includes land divisions, including short plats of residentially zoned land. It also includes all modifications to land and vegetation associated with construction, preparation, or maintenance of residential structures or accessory structures.
93. Restore. Restore, restoration, and ecological restoration mean the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.
94. Riprap. Riprap means a layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also the stone so used.
95. Sea Level Rise. "Absolute sea level rise" means the height of the ocean surface relative to a fixed, unmoving reference point, such as the center of the earth. "Relative sea level" rise means combined separate estimates of absolute sea level rise and vertical land movement (uplift or subsidence).
96. Seawall. A structure separating land and water areas primarily to prevent erosion and other damage by wave action. Generally more massive and capable of resisting greater wave forces than a bulkhead or revetment.
97. Sediment. Sediment means the fine grained material deposited by water or wind.
98. Setback. Setbacks including front, rear and side yard means the distance from the eaves or other projections of the building to the nearer of the lot boundary line or, where there is a street, right-of-way, access easement or private road through the lot, the edge of the street, right-of-way, access easement or private road nearest the building. In the shoreline setback also include setbacks of eaves or other projections of a building from an established shoreline buffer.
99. Shall. Shall means a mandate; the action must be done.
100. Shoreline Armoring. Shoreline armoring refers to bulkheads, riprap and similar hard structures installed along the shore to stabilize the bank and prevent erosion.
101. Shoreline Stabilization. Shoreline stabilization refers actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

102. Shorelands or Shoreland Areas. Shorelands or shoreland areas means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with streams, lakes, and tidal waters which are subject to the provisions of this Program; the same to designated as to location by the Department of Ecology.
103. Shoreline Development. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW, at any stage of water level.
104. Shoreline Environment Designations. The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.
105. Shoreline Jurisdiction. Shoreline jurisdiction means all "shorelines of the state" and "shorelands."
106. Shoreline Management Act. The Shoreline Management Act of 1971 (RCW 90.58), as amended.
107. Shoreline Modifications. Shoreline Modifications means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a bulkhead, or other shoreline structure. Shoreline modifications can include other actions, such as clearing, grading, or application of chemicals.
108. Shoreline Substantial Development Permit. A mechanism through which the City determines whether a proposed development or activity complies with the State of Washington Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Master Program.
109. Shoreline Substantial Development Permit Exemption. Certain developments that meet the precise terms of listed exemptions are granted exemption from the requirements of the substantial development permit process of the Shoreline Management Act (SMA). An activity that is exempt from the substantial development permit provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the Master Program. Shoreline conditional use or variance permits may also still be required even though the activity does not need a substantial development permit.
110. Shorelines of Statewide Significance. Shorelines of Statewide Significance means those shorelines described in RCW 90.58.030. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying

seaward from the line of extreme low tide are classified as shorelines of statewide significance.

111. **Shorelines.** Shorelines means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.
112. **Shorelines of the State.** Shorelines of the state are the total of all 'shorelines' and 'shorelines of statewide significance' within the City of Langley.
113. **Shoreline Buffer.** Shoreline buffer means the area adjacent to a shoreline that separates and protects the area from adverse impacts associated with adjacent land uses.
114. **Shoreline Stabilization.** Shoreline stabilization means actions taken to prevent or mitigate erosion impacts to property, dwellings, businesses, or structures caused by natural shoreline processes such as currents, floods, tides, wind or wave action. Shoreline stabilization includes structural armoring approaches such as bulkheads and revetments and nonstructural approaches such as bio-engineering.
115. **Single family Residence.** A single-family residence is a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.
116. **Significant Vegetation Removal.** The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
117. **Should.** Should means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Program, against taking the action.
118. **Soft-shore bank stabilization.** Soft-shore bank stabilization or bioengineering means project designs or construction methods which use living plant material or a combination of living plant material and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

119. **Structure.** A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.
120. **Structural Shoreline Stabilization.** Shoreline stabilization that includes both hard shoreline stabilization, such as placement of riprap, fitted stone, poured-in-place or precast concrete, driven wood or metal piles, or other similar hard armoring; and soft-shore bank stabilization or bioengineered methods.
121. **Tidelands.** Tidelands means the land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.
122. **Transportation Use.** Transportation use means a use whose primary purpose is the movement and circulation of people, goods, and services. This includes, but is not limited to public roads, rails, parking areas, non-motorized travel corridors, trails, and similar features.
123. **Upland.** Upland means generally the area above and landward of the ordinary high water mark, not including wetlands and other waters of the state.
124. **Unclassified Use.** A use of buildings or property not contemplated in the development of the Master Program due to unique characteristics or technological advances.
125. **Upland.** Generally described as the area above and landward of the OHWM.
126. **Utilities.** Utilities are facilities which produce, store, collect, treat, carry, discharge, or transmit electric power, water, storm drainage, gas, sewage, reclaimed water, communications, or other public services. Accessory utility facilities are those associated with delivery of such public services to support individual uses and developments, such as distribution or service lines.
127. **Variance, Shoreline.** A variance means a type of shoreline permit intended to grant of relief from the specific bulk, dimensional, or performance standards set forth in this Program and not a means to vary a use of the shoreline.
128. **Vegetation Management.** Vegetation Management includes activities to protect, enhance or restore native vegetation along or near shorelines to minimize habitat loss, infestations of invasive plants, and erosion and flooding and therefore contribute to the ecological functions of shoreline areas.
129. **Vessel.** Vessel includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.
130. **Water-dependent Use.** Water-dependent use means a use or portion of a use which requires direct contact with the water and which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of the

operation. Ferry terminals, public fishing piers, and marinas are examples of water-dependent uses. Residential development is not a water-dependent use but is a preferred use of shorelines of the state.

131. **Water-enjoyment Use.** Water-enjoyment use means those uses which provide for recreation involving the water or facilitates public access to the shoreline as the primary characteristic of the use, or a use which provides for aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and, through location, design and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. To qualify as water enjoyment, a use must be open to the general public and the waterward side of the project must be devoted to provisions that accommodate public enjoyment, and the project must meet the Shoreline Master Program public access requirements. Some examples of water-enjoyment uses include viewing towers, parks, and educational/scientific reserves. A restaurant or similar use may qualify as a water-enjoyment use provided it includes public access to the shoreline.
132. **Water-Dependent Industry.** A use involved in manufacturing, processing or fabrication that requires a shoreline or over-the water location because of its intrinsic nature.
133. **Water-oriented Use.** Water-oriented use means any water-dependent, water-related, or water-enjoyment use.
134. **Water-related Use.** Water-related use means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:
 - a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
 - b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.
135. **Water Quality.** Water quality means the physical chemical, aesthetic, and biological characteristics of water.
136. **Watershed Restoration Project.** Watershed restoration project means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
 - a. A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

- b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
 - c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.
137. Watershed Restoration Plan. Watershed restoration plan means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.
138. Weir. Weir means a structure in a stream or river for measuring or regulating stream flow.
139. Wetlands. Wetland means, for the purposes of this SMP, areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

8.1.2 Unlisted Words and Phrases

The definitions contained in this chapter shall be used when administering this Program. The definition of any word or phrase in this Program, but not listed in this chapter which is in question shall be defined from one of the following sources which are incorporated herein by reference. Said sources shall be utilized by finding the desired definition from source number one, but if it is not available there, then source number two may be used and so on. The sources are as follows:

- 1. City development regulations;
- 2. Any City resolution, ordinance, code or regulations;

3. Any statute or regulation of the state of Washington (i.e., the most applicable);
4. Legal definitions from case law or a law dictionary; and
5. The common dictionary.

Langley Shoreline Environment Designations

